

NO. 10118

United States

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Circuit Court of Appeals

For the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

SCHAEFER-HITCHCOCK COMPANY, a corpo-
ration,

Respondent.

Transcript of Record

Upon Petition for Enforcement of an Order of
the National Labor Relations Board

FILED

JUN 24 1942

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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United States of America
Before the National Labor Relations Board
Nineteenth Region
Case No. XIX-C-896

In the Matter of
SCHAEFER-HITCHCOCK COMPANY
and

LUMBER AND SAWMILL WORKERS UNION,
LOCAL NO. 2614, chartered by the UNITED
BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, affiliated with the
AMERICAN FEDERATION OF LABOR.

COMPLAINT

It having been charged by Lumber and Sawmill Workers Union, Local No. 2614, that Schaefer-Hitchcock Company, (herein called the Respondent), has engaged in, and is engaging in, unfair labor practices as set forth and defined in the National Labor Relations Act, 49 Stat. 449, (herein called the Act), the National Labor Relations Board by its Regional Director for the Nineteenth Region, as agent of the National Labor Relations Board, designated by the National Labor Relations Board Rules and Regulations, Series 2, as amended, hereby alleges as follows:

I.

Respondent is, and at all times herein mentioned has been, a corporation organized under and exist-

ing by virtue of the laws of the State of Idaho with its principal office at Sandpoint, Idaho. Respondent owns and operates pole yards and processing plants at Priest River, Idaho, (herein called Priest River Plant), and at Bovill and Sandpoint, Idaho, and at Minneapolis, Minnesota, where it is engaged in the manufacturing, processing, and sale of poles and piling.

II.

A substantial portion of the raw materials, supplies, and equipment used by the respondent in the operation of its Priest River Plant are purchased, shipped, and transported from, into and through States of the United States other than the State of Idaho to the said Priest River Plant, and the greater portion of the products manufactured and processed by it at its Priest River Plant are sold, shipped, and transported from said plant to, into and through States of the United States other than the State of Idaho.

III.

Lumber and Sawmill Workers Union Local No. 2614, (herein called the Union), chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, is a labor organization within the meaning of Section 2, subsection (5) of the Act.

IV.

On or about March 19, 1941, the Respondent discharged Clifford Damschen from its employ at its

Priest River Plant, and at all times since said date has refused and now refuses to reinstate said employee, because of his membership in and activity on behalf of the Union. By said discharge and refusal to reinstate said employee, Respondent has discriminated and is discriminating in regard to hire and tenure of employment, and has discouraged and is discouraging membership in the Union, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsection (3) of the Act.

V.

Respondent, by its officers, agents, and employees, to-wit, Pat Conley, Con Wear, and others well known to Respondent, at various times in February and March of 1941, while engaged in the operation of its Priest River Plant, questioned certain of its employees concerning their membership in the Union and made disparaging remarks about the Union and other labor organizations. On or about February 15, 1941, Respondent by its officers, agents, and employees mentioned above, and others well known to Respondent, caused, instructed, and encouraged a meeting of its employees to be held at which time the aforesaid officers, agents, and employees advised respondent's employees that no benefit would be derived from membership in the Union, that Respondent's employees should not join the Union, that Respondent would close its plant or curtail operations if the employees joined or

were active in the Union, and made other statements derogative to the Union.

VI.

By the acts and statements set forth and described in Paragraphs IV, and V, herein, Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsection (1) of the Act.

VII.

The activities of respondent as set forth and described in Paragraphs IV, and V, herein, occurring in connection with the operations of Respondent as described in Paragraphs I, and II, have a close, intimate and substantial relation to trade, traffic, and commerce among the several States of the United States and tend to lead to labor disputes, burdening and obstructing commerce and the free flow of commerce.

VIII.

The aforesaid acts of Respondent as set forth and described above constitute unfair labor practices affecting commerce within the meaning of Section 8, subsections (1) and (3), and Section 2, subsections (6) and (7) of the said Act.

Wherefore, the National Labor Relations Board, by its Regional Director for the Nineteenth Region on this 27th day of August, 1941, issues its Complaint against Schaefer-Hitchcock Company, Respondent herein.

THOMAS P. GRAHAM, JR.,
Regional Director, National Labor Relations Board,
Nineteenth Region, 407 U. S. Courthouse,
Seattle, Washington.

[Title of Board and Cause.]

ANSWER.

For its answer to the complaint herein, Schaefer-Hitchcock Company, therein called the respondent, admits, denies and alleges as follows:

I.

Respondent admits the allegations of Paragraph I of the complaint.

II.

Respondent admits the allegations of Paragraph II of the complaint.

III.

Respondent is without knowledge with respect to the allegations contained in Paragraph III of the complaint.

IV.

Answering Paragraph IV of the complaint, respondent denies that on or about March 19, 1941, or

at any other time or at all the respondent discharged Clifford Damschen from its employ at its Priest River plant because of his membership in and activity on behalf of the Union, and denies that at all times since said date or at any time since said date, or at all, respondent has refused or now refuses to reinstate said employee because of his membership in or activities on behalf of the Union; denies that by said discharge and refusal to reinstate said employee, or by said discharge or refusal to reinstate said employee, or by anything else, or at all, respondent has discriminated or is discriminating in regard to hire and tenure of employment, or has discouraged or is discouraging membership in the union, or thereby has engaged in or is engaging in unfair labor practices within the meaning of Section 8, subsection (3) of the Act.

V.

Answering Paragraph V of the complaint, respondent denies that respondent, by its officers or agents or employees, to-wit: Pat Conley or Con Wear or others well known to respondent, or by anyone else or at all, at various times in February and March of 1941, or at any time or at all, while engaged in the operation of its Priest River plant or otherwise, questioned certain of its employees concerning their membership in the Union or made disparaging remarks about the Union or other labor organizations; denies that on or about February 15,

1941, or at any time or at all, respondent, by its officers or agents or employees mentioned above, or others well known to respondent, or by anyone else or at all, caused or instructed or encouraged a meeting of its employees to be held, or that at said time or any time the aforesaid officers or agents or employees advised respondent's employees that no benefit would be derived from membership in the Union, or that respondent's employees should not join the Union, or that respondent would close its plant or curtail operations if the employees joined or were active in the Union, or that they or any of them made other statements derogative to the Union.

VI.

Answering Paragraph VI of the complaint, respondent denies that by the acts and statements set forth and described in Paragraphs IV and V of the complaint, or by any acts or statements, respondent has interfered with or restrained or coerced, or is interfering with or restraining or coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act, or thereby has engaged in or is engaging in unfair labor practices within the meaning of Section 8, subsection (1), of the Act.

VII.

Answering Paragraph VII of the complaint, respondent denies that the activities of respondent as set forth and described in Paragraphs IV and V of

sions of his personal opinion, and did not represent the attitude of respondent and its officers.

Wherefore, respondent prays that the complaint herein be dismissed.

SCHAEFER-HITCHCOCK
COMPANY,

By J. E. SCHAEFER,
President.

Respondent;

Post Office Address:

Sandpoint, Idaho.

C. H. POTTS,

Attorney for Respondent;

Post Office Address:

P. O. Box 448,

Coeur d'Alene, Idaho.

State of Idaho

County of Bonner—ss.

J. E. Schaefer, being first duly sworn, on oath deposes and says: That he is an officer, to-wit, President, of Schaefer-Hitchcock Company, a corporation, respondent in the above entitled matter, and makes this verification for and on behalf of said respondent, and is duly authorized so to do; that he has read the within and foregoing Answer, and knows the contents thereof, and that he believes the facts therein stated to be true.

J. E. SCHAEFER.

Subscribed and sworn to before me this 2nd day of Sept., A. D. 1941.

(Seal) CARL E. OLSON,
Notary Public in and for the State of Idaho, residing at Sandpoint, Idaho.

[Title of Board and Cause.]

EXCEPTIONS OF RESPONDENT SCHAEFER-HITCHCOCK COMPANY TO PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND PROPOSED ORDER ISSUED BY NATIONAL LABOR RELATIONS BOARD UNDER DATE OF JANUARY 23rd, 1942.

Now comes Schaefer-Hitchcock Company, the respondent in the above entitled matter, and makes and files its exceptions to the proposed Findings of Fact, proposed Conclusions of Law and proposed Order, issued by the National Labor Relations Board under date of January 23rd, 1942, in case No. C-2002, as follows:

Exception No. 1.

Respondent excepts to the proposed Finding on page 3 reading: "The respondent moved swiftly to counteract this nascent activity" on the ground that said proposed Finding is not supported by evidence and is directly contrary to the undisputed evidence in the case to the effect that neither respondent nor

any of its officers had any knowledge of the alleged union activity prior to March 19, 1941, and that respondent and its officers were not antagonistic to the Union or opposed to labor unions in general and had no objection to its employees at the Priest River, Idaho, plant joining a labor union or engaging in union activities.

Exception No. 2.

Respondent excepts to the proposed Finding on page 3 to the effect that Con Wear was one of the respondent's supervisory employees and the Findings on said page reading: "We find Con Wear to be a supervisory employee and, as such, the respondent is responsible for his acts", for the reason that said proposed Findings are not supported by evidence and are directly contrary to the undisputed evidence in the case to the effect that Con Wear was an ordinary employee in the Priest River plant who merely transmitted the orders of the plant foremen to the employees.

Exception No. 3.

Respondent excepts to the proposed Findings on Page 5 to the effect that Damschen "continued to urge the employees to join the union during the remainder of February and in March." And that "likewise, the respondent's countering efforts continued", for the reason that said proposed Findings are not supported by evidence and there is no evidence to justify a Finding that the respondent continued any countering efforts or at any time made

any effort whatever to prevent or interfere with any of its employees joining the union.

Exception No. 4.

Respondent excepts to the proposed Findings contained in the second paragraph on Page 5 reading:

“It is apparent from the entire record, and we find, that the respondent, through its supervisory employees, sought to counteract Damschen’s efforts to interest the employees in union organization and to discourage the employees from exercising their rights under the Act. Wear’s statements to Webb on February 11 and to Damschen, Conkright, and Dempsey after February 15, considered in conjunction with the February 15 meeting, were all intended, we believe, to make clear to the employees that the respondent did not desire that its employees join the union. Thus, the respondent, by seeking to urge its employees to refrain from self-organization, injected itself into a sphere of activity reserved under the Act exclusively to employees”, for the reason that the proposed Findings are not supported by evidence and are based solely on suspicion and conjecture.

Exception No. 5.

Respondent excepts to the proposed Finding contained in the third paragraph on page 5 reading:

“We find that the respondent, by the statements of Con Wear to Webb on February 11, by instigating and holding a meeting on February 15, by the state-

ments of Conlee during this meeting, and by the statements of Con Wear to Damschen about a week thereafter, interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act", for the reason that said Finding is not supported by evidence and is contrary to law, and that none of the statements of Con Wear and Conlee interfered with or restrained or coerced respondent's employees in the exercise of the rights guaranteed in Section 7 of the Act, and that there is no evidence proving or tending to prove that respondent instigated or had anything to do with the holding of the meeting on February 15, or that respondent or any of its officers had any knowledge of the said meeting at or prior to the time it was held. That the undisputed evidence shows that said meeting was called and held by the employees in the Priest River plant on their own initiative and without any suggestion or supervision of respondent or any of its officers.

Exception No. 6.

Respondent excepts to the proposed Finding in the second paragraph on page 6 reading: "The reasons advanced by Conlee and by Schaefer on these two separate occasions for the discharge of Damschen are inconsistent" for the reason that said proposed Finding is not supported by evidence and because the evidence is undisputed that Schaefer did not advance any reason for the discharge of Damschen, but stated in effect, that he did not know

that Damschen had been discharged or why the foreman discharged him, but that it might have been because of certain actions of Damschen in operating the tractor to which he had called the foreman's attention.

Exception No. 7.

Respondent excepts to the proposed finding in the second paragraph on page 6 reading: "Schaefer told Damschen, Paddock, and Butler that he told Conlee to discharge Damschen because Damschen was rough on the machinery and he had caught Damschen 'jerking a tractor', and had also said on this occasion that he had heard that Damschen was not satisfied with his wages, and when Damschen admitted this Schaefer said, 'By God, if a man ain't satisfied then he can quit.'" for the reason that said proposed Finding is not supported by evidence and is contrary to the undisputed evidence that Schaefer had not told Conlee to discharge Damschen at all.

Exception No. 8.

Respondent excepts to the proposed Finding in the second paragraph on page 6 reading: "Schaefer's statement that he had told Conlee to discharge Damschen is also at variance with Conlee's unqualified testimony that Conlee had discharged Damschen without consulting anyone or receiving advice or orders from anyone" for the reason that said proposed Finding is not supported

by evidence and is contrary to the undisputed evidence that the foreman discharged Damschen on his own initiative and without consulting anyone.

Exception No. 9.

Respondent excepts to the proposed Finding in the third paragraph on page 6 reading: "In its answer and at the hearing, except for Schaefer's testimony, the respondent maintained that Damschen was discharged in connection with a reduction in force upon the discontinuance of the use of one of its tractors" for the reason that said proposed Finding is not supported by evidence and that respondent alleged in its answer "that on or about March 19, 1941, the use of one of said tractors was discontinued and by reason thereof it became necessary to lay-off one of the tractor drivers and that the foreman of said plant, P. J. Conley, thereupon laid off the said Clifford Damschen, for the reason that his services were no longer required by respondent and his employment was thereupon terminated." And the foreman testified at the hearing that the reason for the discharge of Damschen was that he (the foreman) was discontinuing the operation of one of the tractors and that Damschen's services were no longer required.

Exception No. 10.

Respondent excepts to the proposed Finding in the third paragraph on page 6 reading: "Within 2 weeks after Damschen's discharge, a new tractor was purchased and placed in operation, again in-

creasing the number of tractors in operation to three, the same number in use on March 19," for the reason that said proposed Finding is not supported by evidence.

Exception No. 11.

Respondent excepts to the proposed Finding in the first paragraph on page 7 reading: "It is thus clear that the respondent's contention that Damschen's discharge was necessitated by reason of a reduction in force is contrary to the facts which demonstrate not only that the respondent hired new tractor drivers after March 19, but further that the period immediately preceding and following Damschen's discharge was marked by a large expansion in the respondent's personnel." for the reason that said proposed Finding is not supported by evidence, and that respondent did not allege in its answer, or contend at the hearing that the discharge of Damschen was the result of any general reduction in force at the plant, but alleged and contended and proved that the use of one of the three tractors was discontinued on March 19, 1941, and that by reason thereof it became necessary to lay-off one of the tractor drivers, and the foreman decided to lay-off Damschen.

Exception No. 12.

Respondent excepts to the proposed Finding in the second paragraph on page 7 reading: "Thus, we find that the various reasons advanced by the respondent through its operative heads and in its

answer for the discharge of Damschen are inconsistent with each other, and at variance with the conditions obtaining in the respondent's plant throughout the period of time in question. Upon consideration of all the evidence, we find that these defenses were mere subterfuges designed to conceal the true reason for the discharge which was, in fact, the respondent's desire to remove Damschen from the scene and thus prevent his efforts to organize its employees into the Union from attaining success" for the reason that said proposed Finding is not supported by evidence and the evidence as a whole is insufficient to justify said proposed Finding, or any part thereof, since the foreman testified positively and unequivocally that he did not discharge Damschen because of his membership in the Union or because of any union activity, and his testimony was not contradicted and he was not impeached.

Exception No. 13.

Respondent excepts to the proposed Finding in the third paragraph on page 7 reading: "We find that the respondent, by discharging Clifford Damschen on March 19, 1941, discriminated in regard to his hire and tenure of employment, thereby discouraging membership in the Union, and thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act," for the reason that said proposed Finding is not supported by evidence, and the

evidence as a whole is insufficient to justify said proposed Finding.

Exception No. 14.

Respondent excepts to the proposed Finding in the fourth paragraph on page 7 reading: "We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several states, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce." for the reason that said proposed Finding is not supported by evidence and that the evidence is insufficient to justify said proposed Finding.

Exception No. 15.

Respondent excepts to the proposed Orders to cease and desist from certain unfair labor practices and to offer Clifford Damschen immediate and full reinstatement to his former, or a substantially equivalent, position without prejudice to his seniority and other rights and privileges, and to make him whole for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages from March 19, 1941, to the date of the offer of his reinstatement, less his net earnings during said period, as set forth under the heading "The Remedy" in

the first two paragraphs on page 8, for the reason that the evidence is insufficient to justify said proposed Orders, or any of them, and said proposed Orders and each of them are contrary to law.

Exception No. 16.

Respondent excepts to proposed Conclusion of Law, No. 2, to the effect that respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8 (3) of the Act by discriminating in regard to the hire and tenure of the employment of Clifford Damschen, thereby discouraging membership in the Union, for the reason that the evidence is insufficient to justify said proposed Conclusion of Law or any Finding in support thereof, and the said proposed Conclusion is contrary to law.

Exception No. 17.

Respondent excepts to proposed Conclusion of Law, No. 3, to the effect that respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8 (1) of the Act, by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, for the reason that the evidence is insufficient to justify said proposed Conclusion or any Findings in support thereof.

Exception No. 18.

Respondent excepts to proposed Conclusion of Law, No. 4, to the effect that the aforesaid unfair

labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act, for the reason that the evidence is insufficient to justify said proposed Conclusion or any Finding in support thereof, or that respondent has engaged in any unfair labor practices.

Exception No. 19.

Respondent excepts to subdivision 1 (a.) of the proposed Order that the respondent and its officers, agents, successors, and assigns shall cease and desist from discouraging membership in the Union or any other labor organization of its employees by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire or tenure of employment, or any term or condition of employment, for the reason that the evidence is insufficient to justify said proposed Order or any part thereof, and said proposed Order is contrary to law and is in excess of the power in the National Labor Relations Board.

Exception No. 20.

Respondent excepts to subdivision 1 (b.) of the proposed Order that the respondent and its officers, agents, successors and assigns shall cease and desist from in any other manner interfering with, restraining or coercing its employees in the exercise of the right to self-organization to form, join, or assist labor organizations; to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of col-

lective bargaining, or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act, for the reason that the evidence is insufficient to justify said proposed Order, or any part thereof, or to support any Findings that respondent has interfered with any of such rights of its employees, and that said proposed Order is contrary to law.

Exception No. 21.

Respondent excepts to subdivision 2 (a.) of said proposed Order requiring it to offer to Clifford Damschen immediate and full reinstatement to his former or a substantially equivalent position without prejudice to his seniority and other rights and privileges, for the reason that the evidence is insufficient to justify said proposed Order, and it is contrary to law.

Exception No. 22.

Respondent excepts to subdivision 2 (b.) of said proposed Order requiring it to make whole the said Clifford Damschen for any loss of pay he has suffered by reason of his discriminatory discharge by payment to him of a sum of money equal to that which he would normally have earned as wages during the period from the date of his discharge, March 19, 1941, to the date of the offer of reinstatement, less his net earnings during said period, for the reason that the evidence is insufficient to justify said proposed Order, and it is contrary to law.

Exception No. 23.

Respondent excepts to subdivision 2 (c.) of said proposed Order requiring it to post notices to its employees containing the matters set forth in said subdivision 2 (c.), for the reason that the evidence is insufficient to justify said proposed Order, and it is contrary to law.

Exception No. 24.

Respondent excepts to subdivision 2 (d.) of said proposed Order for the reason that it is contrary to law.

Exception No. 25.

Respondent excepts to each and every one of the proposed Findings of Fact, proposed Conclusions of Law, and provisions in the proposed Order, heretofore specifically excepted to, on the ground that the evidence as a whole is insufficient to justify any of said proposed Findings, Conclusions, or provisions in said Order, and that each and all of them are contrary to law.

Exception No. 26.

Respondent, Schaefer-Hitchcock Company, excepts to each and every matter and thing in said proposed Findings of Fact, proposed Conclusions of Law, and proposed Order, whether in the form of Finding of Fact, Conclusion of Law, Remedy, Order, or otherwise finding, holding, or deciding that respondent interfered with, restrained, or coerced its employees in the exercise of the rights guar-

anteed in Section 7 of the Act, or that respondent, by discharging Clifford Damschen, discriminated in regard to his hire and tenure of employment, or interfered with, restrained or coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, or in any way violated the provisions of the National Labor Relations Law.

Respectfully submitted,

C. H. POTTS,

Attorney for Respondent.

Address: Post Office Box 448.

United States of America
Before the National Labor Relations Board
Case No. C-2002

In the Matter of SCHAEFER-HITCHCOCK
COMPANY and LUMBER AND SAWMILL
WORKERS UNION, LOCAL No. 2614, char-
tered by the UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF AMER-
ICA, affiliated with the AMERICAN FED-
ERATION OF LABOR.

Mr. Charles M. Brooks,
for the Board.

Mr. C. H. Potts,
of Coeur d'Alene, Idaho,
for the respondent.

Mr. Charles A. Paddock,
of Spokane, Wash.,
for the Union.

Mr. Max W. Johnstone,
of counsel to the Board.

DECISION AND ORDER

Statement of the Case

Upon charges duly filed by Lumber and Sawmill
Workers Union, Local No. 2614, chartered by the
United Brotherhood of Carpenters and Joiners of
America, affiliated with the American Federation of
Labor, herein called the Union, the National Labor

Relations Board, herein called the Board, by the Regional Director for the Nineteenth Region (Seattle, Washington), issued its complaint dated August 27, 1941, against Schaefer-Hitchcock Company, Priest River, Idaho, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

With respect to the unfair labor practices the complaint alleged in substance that the respondent (1) discharged Clifford Damschen, one of its employees at its Priest River plant, on or about March 19, 1941, and has at all times since said date refused to reinstate him because of his membership in and activity on behalf of the Union, (2) questioned certain of its employees concerning their membership in the Union and made disparaging remarks about the Union and other labor organizations in February and March 1941, (3) called and held a meeting of its employees on or about February 15, 1941, at which meeting it advised its employees that they would derive no benefit from membership in the Union, that its employees should not join the Union, and that it would close its plant or curtail operations if its employees joined or were active in the Union, and (4) by the foregoing acts interfered with, restrained, and coerced its employees in the

exercise of the rights guaranteed in Section 7 of the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the respondent and the Union. The respondent filed an answer, dated September 2, 1941, denying the allegations of unfair labor practices contained in the complaint, and setting up certain affirmative defenses, herein-after considered.

Pursuant to notice, a hearing was held at Priest River, Idaho, on September 15 and 16, 1941, before P. H. McNally, the Trial Examiner duly designated by the Chief Trial Examiner. The Board, the respondent, and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. At the close of the Board's case, on motion of the Board's counsel, the complaint was amended to conform to the proof, without objection. The Board has reviewed the rulings of the Trial Examiner on other motions and on objections to the admission of evidence at the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On November 7, 1941, the Board, pursuant to Article II, Section 36, of National Labor Relations Board Rules and Regulations—Series 2, as amended, ordered that the proceeding be transferred to and continued before it; that no Intermediate Report be issued by the Trial Examiner; that, pursuant to

Article II, Section 37 (c), of said Rules and Regulations, Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order be issued; and further ordered, pursuant to Article II, Section 37, of said Rules and Regulations, that the parties herein should have the right, within thirty (30) days from the date of said Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order, to file exceptions thereto and a brief in support thereof, and to request oral argument before the Board within twenty (20) days after the date of said Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order.

Thereafter, on November 22, 1941, the respondent filed a brief before the Trial Examiner, which brief the Board has considered.

On January 23, 1942, the Board issued and duly served upon the parties Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order. None of the parties requested oral argument before the Board. The respondent, on February 20, 1942, filed exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order and, on the same date, a brief in support thereof. The Board has considered the exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order and finds no merit in them.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. The business of the respondent

The respondent, Schaefer-Hitchcock Company, is a corporation organized under and existing by virtue of the laws of the State of Idaho, having been incorporated in 1930. It owns and operates plants where it processes poles at Priest River, Bovill, and Sandpoint, Idaho, and at Minneapolis, Minnesota. Its principal office is at Sandpoint, Idaho. The only plant involved herein is its Priest River, Idaho, plant. This plant normally employs from 22 to 70 persons.

The respondent annually uses about 21,680 poles and 105,800 gallons of creosote in its processing operations at its Priest River plant. All of said creosote and approximately 10 percent of said poles are purchased and shipped to its Priest River plant from points outside the State of Idaho. It annually handles or processes poles at its Priest River plant valued at approximately \$148,000, of which approximately 85 percent are sold and shipped to points outside the State of Idaho.

II. The organization involved

Lumber and Sawmill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, is a labor organization which admits employees of the respondent to membership.

III. The unfair labor practices

A. Interference, restraint, and coercion

There was no union activity among the respondent's employees at its Priest River plant prior to early February 1941. At that time, Clifford Damschen, alleged in the Board's complaint to have been discriminatorily discharged on March 19, started to talk to the employees about organizing a union. At about this same time he communicated with the president of the local union at a nearby town, requesting him to send a union organizer to Priest River. On February 10, Belden, a union organizer, came to the plant and inquired for Damschen. Thereupon Damschen went to the outskirts of the plant and conferred with Belden who was waiting there. At this time Damschen signed an application for membership in the Union, and a meeting was arranged for the next night, February 11, to be held at Wright's Hall in Priest River, for the purpose of attempting to organize the employees.

Immediately after returning to the plant from his conference with Belden, Damschen spoke to a number of the employees, telling them of the projected meeting and its purpose. He continued to disseminate news of the meeting the next day, urging the employees to attend, and, by the time set for the meeting, had so approached a majority of them.

The respondent moved swiftly to counteract this nascent union activity. On February 11, Con Wear, one of the respondent's supervisory employees, spoke to John Webb, a production employee, while

they were at work, and asked him what he thought about a union. Webb replied that he thought conditions had come to a point where a union was necessary. This discussion continued and Wear told Webb that it would be better for the employees to leave the Union alone, until Schaefer, the president of the respondent, told them to join a union and what union to join. The foregoing findings with respect to Wear's statements to Webb are based upon Webb's uncontradicted testimony.¹ At the union meeting that night, but two of the respondent's employees, other than Damschen, appeared. It was decided there that a further union meeting, for the same purpose, would be held on February 19.

(1) At the hearing the respondent maintained that Con Wear was not a supervisory employee. Damschen and another Board witness characterized Wear as a "straw boss" and testified that Wear gave orders around the plant and had given them orders. Wear, in his testimony, admitted that he took the place of Pat Conlee, the foreman of the plant, when Conlee was away and had done so at various times theretofore; that he did give orders around the plant; and that he was in complete charge of the plant for a period of 4 or 5 months in 1939 before Conlee came and assumed authority. Conlee testified that Wear may recommend hiring and firing and had done so in the past, and that he utilized Wear to "transmit" orders. We find Con Wear to be a supervisory employee and, as such, the respondent is responsible for his acts. See *National Labor Relations Board v. Link-Belt Co.*, 311 U. S. 584; *International Association of Machinists v. National Labor Relations Board*, 311 U. S. 72; *National Labor Relations Board v. Jahn & Ollier Engraving Company*, (C. C. A. 7) decided November 26, 1941.

Damschen continued his efforts to organize the employees into the Union, telling them of the meeting set for February 19.

A few days before February 15, however, George Conkright, a checker, Con Wear, and others, approached a majority of the respondent's employees telling them of a meeting to be held on February 15, at the Peterson Hotel in Priest River, for the purpose of discussing the question of unionization. Con Wear invited Damschen to attend. When so invited Damschen asked if a union organizer would be present, and Wear replied that the meeting would be confined to the employees. Wear testified, and we find, that he invited others to attend, including Conlee, the foreman. Conlee testified that he was informed of the purpose of the proposed meeting when he was invited. Wear also admitted in his testimony that it was only after he had heard that a union organizer had been in Priest River that he and Conkright conceived the idea of the meeting and started organizing it.

At this meeting, which was attended by 21 of the respondent's force, which then numbered 25 or 26, Con Wear announced the presence of Foreman Conlee, stating that Conlee had previously had experience with unions "back east," and could tell the employees about them.² At Wear's invitation Conlee spoke to the employees, saying that everything was

(2) Conlee had been superintendent of the respondent's Minneapolis yard from 1930 to 1938, during which time the employees there had struck the yard twice in 1935 or 1936, and again in 1938.

“rosy in the yard”; that he thought they “were getting along swell”; that if the employees had any troubles they should bring them to him; that he had “had experience with unions back east” and “they went out on strike and lost much more than they gained by their strike”; and that unions “can call you out on strike any time they want to and tax you on your dues.” At this point in Conlee’s speech Damschen stated that he understood that members of a local union had the right to vote on the questions of taxation, dues, and strikes. Conlee replied thereto, “Yes, but they can tell you how to vote.” Damschen then suggested that a union organizer should be present in order to give the employees the Union’s viewpoint, and “make it a two-sided discussion.” To this Conlee replied, “that would not be a two-sided discussion. Them fellows have answers for every question you ask. They can paint some beautiful pictures, but I never seen one developed.” During the meeting Damschen stated that he was not satisfied with his wages and that several of the employees were likewise dissatisfied. Toward the end of the meeting, one of the employees suggested that they vote on the question of whether or not they should organize into a union. Damschen objected to such a vote until the employees had an opportunity to hear a union organizer on the subject. Also, during this meeting, Damschen announced that a union meeting would be held on February 19. Conlee and Con Wear, in their testimony, admitted the sub-

stance of the account of the meeting of February 15, above set forth.³

Thereafter, only Damschen, among the respondent's employees, appeared for the Union meeting on February 19. He testified, and we so find, that he continued to urge the employees to join the Union during the remainder of February and in March. Likewise, the respondent's countering efforts continued. About a week after the respondent's meeting of February 15, according to Damschen, Con Wear brought the subject of the Union into a conversation with Damschen, George Conkright, and Fay Dempsey, stating that the employees were getting along pretty well and that he "hated" to see a union go in and "break us up." When Damschen told Wear, at this time, that he was not satisfied with his wages, Wear replied, "Well, I believe we can straighten things out without a union." Damschen's testimony about this conversation, above set forth, was undenied, although Wear and Conkright were

(3) The account of this meeting above set forth is based on the undisputed testimony of Damschen, corroborated by John Webb. There was no essential difference in the testimony given by the Board's and the respondent's witnesses relative to the meeting. Some of the respondent's witnesses indicated that Conlee prefaced his remarks with the thought that the respondent was indifferent to the question of whether or not its employees joined the Union. We find it unnecessary to make a finding on this, for, assuming that Conlee did so preface his other remarks, that would not vitiate the effects of his open attack on the Union and unions generally.

called by the respondent and testified at the hearing. We find that Wear made the statement above attributed to him substantially as testified to by Damschen.

It is apparent from the entire record, and we find, that the respondent, through its supervisory employees, sought to counteract Damschen's efforts to interest the employees in union organization and to discourage the employees from exercising their rights under the Act. Wear's statements to Webb on February 11 and to Damschen, Conkright, and Dempsey after February 15, considered in conjunction with the February 15 meeting, were all intended, we believe, to make clear to the employees that the respondent did not desire that its employees join the Union. Thus, the respondent, by seeking to urge its employees to refrain from self-organization, injected itself into a sphere of activity reserved under the Act exclusively to employees. It is significant to note that whereas the employees attended a meeting arranged by Wear, union meetings called by Damschen were ignored by the employees.

We find that the respondent, by the statements of Con Wear to Webb on February 11, by instigating and holding a meeting on February 15, by the statements of Conlee during this meeting, and by the statements of Con Wear to Damschen about a week thereafter, interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

B. The discharge of Clifford Damschen

Clifford Damschen, the only one of the respondent's employees to apply for membership in the Union and to engage in organizational activity on behalf of the Union, was discharged by the respondent on March 19, 1941. As found hereinbefore, Damschen continued his organizational activity after the respondent's meeting of February 15 into the month of March.

Damschen was first employed by the respondent in 1934, and from 1935 to the date of his discharge worked whenever the Priest River plant operated.⁴ He had performed numerous operations such as hooking chain, working on the skidways, tailing down, sawing on cross-cut saws, working on the vats, decking poles, driving a team, "odd jobs," and driving a tractor, at various times throughout the years since he was first employed by the respondent. Damschen drove the first tractor acquired by the respondent for motive power, in 1937, and continued to drive a tractor thereafter until his discharge, except for very short periods of time when he was temporarily transferred to other tasks.

On March 19, 1941, Conlee handed Damschen two pay checks representing payment in full for his services to the end of that day, and indicated to

(4) Conlee testified that he had never before laid off Damschen except when a majority of the employees were likewise laid off; and that Damschen was the only employee whose services were dispensed with on March 19, 1941.

Damschen that his services were no longer required. Damschen testified, without denial, that when he asked Conlee if his remarks meant that he was not to report for work the next day, Conlee replied, "That is right. We are cutting down the force. We won't be needing you any more."

Damschen immediately referred the matter to Butler, president of the Union, who, with Paddock, a union representative, visited Conlee on March 22, about the discharge. Later in the same day the union officials, accompanied by Damschen, conferred with Schaefer, president of the respondent. The reasons advanced by Conlee and by Schaefer on these two separate occasions for the discharge of Damschen are inconsistent. As established by Damschen's undenied testimony, partially corroborated by Conlee and Schaefer, but in no respect contradicted by any of the respondent's witnesses, Conlee told Paddock and Butler that Damschen was discharged because of a reduction in force, whereas Schaefer told Damschen, Paddock, and Butler that he told Conlee to discharge Damschen because Damschen was rough on the machinery and he had caught Damschen "jerking a tractor." Further, according to Damschen's undenied testimony, Schaefer also said on this occasion that he had heard that Damschen was not satisfied with his wages, and when Damschen admitted this Schaefer said, "By God, if a man ain't satisfied then he can quit." Schaefer's statement that he had told Conlee to discharge Damschen is also at variance with Conlee's unqualified testi-

mony that Conlee had discharged Damschen without consulting anyone or receiving advice or orders from anyone. Damschen also testified without denial, and we find, that he had never been adversely criticised by Conlee, Wear, Schaefer, or anyone else, in connection with his work. Indeed, Conlee testified on cross-examination that Damschen's work as a tractor driver and all of his work was "quite satisfactory," and that he had "nothing in particular" against him.

In its answer and at the hearing, except for Schaefer's testimony, the respondent maintained that Damschen was discharged in connection with a reduction in force upon the discontinuance of the use of one of its tractors. Conlee testified that he had discharged Damschen because one of the three tractors operated by the respondent had worn out. The record shows, however, that the tractor in question had been operated by one Dempsey, and not by Damschen. Moreover, within 2 weeks after Damschen's discharge, a new tractor was purchased and placed in operation, again increasing the number of tractors in operation to three, the same number in use on March 19. Less than 2 months thereafter, when a second shift was added, of the six employees assigned to the operation of tractors, two had been hired after Damschen's discharge. Moreover, one Clyde Wear had been assigned to driving a tractor only 1 week prior to the discharge. The respondent offered no explanation for choosing Damschen for discharge in view of his long experience, nor did it

explain why new men were hired as tractor drivers thereafter, when it was aware that Damschen, an admittedly competent operator, had sought reinstatement.⁵

Furthermore, not only did the respondent hire new tractor drivers following Damschen's discharge, but the respondent also increased greatly its working force after February 15. On that date the re-

(5) The respondent sought to show at the hearing that Damschen had not appeared for work after March 19. It is apparent, however, that Damschen protested his discharge on March 22. In addition, throughout the hearing and its brief before the Trial Examiner, it was the respondent's position that Damschen was discharged on March 19, and we so find. Also, at the hearing, the respondent sought to show that it had no seniority policy in effect at its Priest River plant, and that therefore it could discharge anyone it wished, presumably in connection with a reduction in force. The operative conditions in effect at the respondent's plant, however, do not support the respondent's contention. The uncontradicted testimony shows that the respondent favored employees who had been with it for 2 or more years in assigning work at slack times, and that the respondent had placed in effect in 1940, a vacation-with-pay plan for only those if its employees who had been with it for 2 or more years. Damschen's testimony, likewise uncontradicted, also establishes the fact that the majority of the respondent's employees on March 19 had less service with the respondent than Damschen had. He named four such employees and testified that two of them were performing operations on March 19, which he had performed. We find that these defenses, if such it was intended they be considered, are mere afterthoughts, totally inconsistent with the facts, and without merit.

spondent had approximately 26 employees, on March 19 approximately 35, and on May 15 the respondent added a second shift which raised the number of employees to 70. At the time of the hearing the respondent had approximately 55 employees. It is apparent that Damschen, because of his varied experience with the respondent, was qualified to perform some of the tasks for which these new employees were hired. It is thus clear that the respondent's contention that Damschen's discharge was necessitated by reason of a reduction in force is contrary to the facts which demonstrate not only that the respondent hired new tractor drivers after March 19, but further that the period immediately preceding and following Damschen's discharge was marked by a large expansion in the respondent's personnel.

At the hearing, when asked on cross-examination why he had not permitted Damschen to run a tractor after March 19, Foreman Conlee replied, "Well, I just did not want Damschen, I guess was the reason," and when asked if the reason why he had not offered Damschen employment thereafter was that Damschen had taken matters up with the Union, Conlee replied, "I don't think that was a particular reason. I think it may have had some bearing on it." Thus, we find that the various reasons advanced by the respondent through its operative heads and in its answer for the discharge of Damschen are inconsistent with each other, and at variance with the conditions obtaining in the re-

spondent's plant throughout the period of time in question. Upon consideration of all the evidence, we find that these defenses were mere subterfuges designed to conceal the true reason for the discharge which was, in fact, the respondent's desire to remove Damschen from the scene and thus prevent his efforts to organize its employees into the Union from attaining success.

We find that the respondent, by discharging Clifford Damschen on March 19, 1941, discriminated in regard to his hire and tenure of employment, thereby discouraging membership in the Union, and thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

IV. The effect of the unfair labor practices upon commerce

We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

The Remedy

Having found that the respondent has engaged in certain unfair labor practices, we shall order it to cease and desist therefrom, and to take certain

affirmative action which we deem necessary to effectuate the policies of the Act.

We have found that the respondent, by discharging Clifford Damschen, discriminated in regard to his hire and tenure of employment, thereby discouraging membership in the Union. We shall, therefore, order the respondent to offer Clifford Damschen immediate and full reinstatement to his former or a substantially equivalent position without prejudice to his seniority and other rights and privileges, and to make him whole for any loss of pay he has suffered by reason of the discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages from March 19, 1941, to the date of the offer of reinstatement, less his net earnings⁶ during said period.

Upon the basis of the above findings of fact and

(6) By "net earnings" is meant earnings less expenses such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for the respondent's discrimination against him and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corp. v. N. L. R. B.* 311 U. S. 7.

upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. Lumber and Sawmill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, is a labor organization within the meaning of Section 2 (5) of the Act.

2. By discriminating in regard to the hire and tenure of employment of Clifford Damschen, thereby discouraging membership in the Union, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

3. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the

National Labor Relations Board hereby orders that the respondent, Schaefer-Hitchcock Company, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in Lumber and Sawmill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, or any other labor organization of its employees, by discharging or refusing to reinstate any of its employees or in any other manner discriminating in regard to their hire or tenure of employment or any term or condition of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer to Clifford Damschen immediate and full reinstatement to his former or a substantially equivalent position without prejudice to his seniority and other rights and privileges;

(b) Make whole the said Clifford Damschen for any loss of pay he has suffered by reason of his discriminatory discharge by payment to him of a sum of money equal to that which he would normally have earned as wages during the period from the date of his discharge, March 19, 1941, to the date of the offer of reinstatement, less his net earnings during said period;

(c) Immediately post in conspicuous places in and about its plant at Priest River, Idaho, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a) and (b) of this Order; (2) that it will take the affirmative action set forth in paragraphs 2 (a) and (b) of this Order; and (3) that the respondent's employees are free to become or remain members of Lumber and Sawmill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any employee because of membership or activity in that organization;

(d) Notify the Regional Director for the Nineteenth Region, in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

Signed at Washington, D. C., this 12 day of
March 1942.

HARRY A. MILLIS,
Chairman,
WILLIAM M. LEISERSON,
Member,
GERARD D. REILLY,
Member,
(Seal) NATIONAL LABOR
RELATIONS BOARD.

In the United States Circuit Court of Appeals
for the Ninth Circuit

10118

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

SCHAEFFER-HITCHCOCK COMPANY,
Respondent.

PETITION FOR ENFORCEMENT OF AN
ORDER OF THE NATIONAL LABOR RE-
LATIONS BOARD.

To the Honorable, the Judges of the United States
Circuit Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to
the National Labor Relations Act (Act of July 5,
1935, 49 Stat. 449, c. 372, 29 U. S. C. § 151 et seq.),

respectfully petitions this Court for the enforcement of its order against respondent, Schaefer-Hitchcock Company, and its officers, agents, successors, and assigns. The proceeding resulting in said order is known upon the records of the Board as "In the Matter of Schaefer-Hitchcock Company and Lumber and Sawmill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, Case No. C-2002."

In support of this petition, the Board respectfully shows:

(1) Respondent is an Idaho corporation, engaged in business in the State of Idaho, within this judicial circuit, where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act.

(2) Upon all proceedings had in said matter before the Board, as more fully shown by the entire record thereof certified by the Board and filed with this Court herein, to which reference is hereby made, and including, without limitation, a complaint, respondent's answer to the complaint, hearing for purpose of taking testimony and receiving other evidence, order transferring case to the Board, proposed findings of fact, proposed conclusions of law, and proposed order, respondent's exceptions thereto, the Board, on March 12, 1942, duly stated its findings of fact, conclusions of law, and order directed to respondent Schaefer-Hitchcock Com-

pany, and its officers, agents, successors, and assigns. The aforesaid order provides as follows:

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Schaefer-Hitchcock Company, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in Lumber and Sawmill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, or any other labor organization of its employees, by discharging or refusing to reinstate any of its employees or in any other manner discriminating in regard to their hire or tenure of employment or any term or condition of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guar-

anteed in Section 7 of the National Labor Relations Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer to Clifford Damschen immediate and full reinstatement to his former or a substantially equivalent position without prejudice to his seniority and other rights and privileges;

(b) Make whole the said Clifford Damschen for any loss of pay he has suffered by reason of his discriminatory discharge by payment to him of a sum of money equal to that which he would normally have earned as wages during the period from the date of his discharge, March 19, 1941, to the date of the offer of reinstatement, less his net earnings during said period;

(c) Immediately post in conspicuous places in and about its plant at **Priest River, Idaho**, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a) and (b) of this Order; (2) that it will take the affirmative action set forth in paragraphs 2 (a) and (b) of this Order; and (3) that the respondent's employees are free to become or remain members of Lumber and Sawmill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters

and Joiners of America, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any employee because of membership or activity in that organization;

(d) Notify the Regional Director for the Nineteenth Region, in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

(3) On March 12, 1942, the Board's decision and order was served upon respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to C. H. Potts, Esquire, respondent's attorney in Coeur d'Alene, Idaho.

(4) Pursuant to Section 10 (e) of the National Labor Relations Act, the Board is certifying and filing with this Court the transcript of the entire record in the proceeding before the Board, including the pleadings, testimony and evidence, findings of fact, conclusions of law and order of the Board.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon respondent and that this Court take jurisdiction of the proceedings and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and the proceedings set forth in the transcript and upon the order made thereupon set forth in paragraph (2) hereof, a decree enforcing in whole said

order of the Board, and requiring respondent, and its officers, agents, successors, and assigns, to comply therewith.

NATIONAL LABOR RELATIONS
BOARD

By ERNEST A. GROSS

Associate General Counsel

Dated at Washington, D. C., this 23rd day of April, 1942.

District of Columbia—ss.

Ernest A. Gross, being first duly sworn, states that he is Associate General Counsel of the National Labor Relations Board, petitioner herein, and that he is authorized to and does make this verification in behalf of said Board; that he has read the foregoing petition and has knowledge of the contents thereof; and that the statements made therein are true to the best of his knowledge, information, and belief.

ERNEST A. GROSS

Associate General Counsel

Subscribed and sworn to before me this 23rd day of April, 1942.

(Seal)

DANIEL T. GHENT, JR.

Notary Public, District of Columbia

My commission expires August 31, 1944.

[Endorsed]: Filed Apr. 27, 1942. Paul P. O'Brien,
Clerk.

[Title of Circuit Court of Appeals and Cause.]

ANSWER TO PETITION FOR ENFORCE-
MENT OF AN ORDER OF THE NATIONAL
LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States
Circuit Court of Appeals for the Ninth Circuit:

Schaefer-Hitchcock Company, the respondent in the above entitled proceeding, for its Answer to the Petition for Enforcement of An Order of the National Labor Relations Board, filed in this Court, states:

(1) Admits that respondent is an Idaho corporation, engaged in business in the State of Idaho, within this judicial circuit, where the alleged unfair labor practices occurred, but denies that said alleged unfair labor practices did occur, or that respondent has engaged in or is engaging in unfair labor practices within the meaning of Section 8 (1) and/or (3) of the Act.

(2) Admits that upon all proceedings had in said matter before the Board, as more fully shown by the entire record thereof, certified by the Board and filed with this Court, the Board on March 12, 1942, stated its Findings of Fact, Conclusions of Law, and Order, directed to respondent Schaefer-Hitchcock Company, and its officers, agents, successors and assigns, and that the Order set forth in paragraph (2) of said Petition is the order which was made by the Board on March 12, 1942, in said matter.

Respondent denies that the Board duly stated said findings of fact or conclusions of law or order for the reasons hereinafter set forth and alleged. Denies that the Board's findings of fact are fully supported by substantial evidence or are supported by evidence, and denies that the Board's Order is wholly valid and proper under the Act, or is valid or proper in any respect.

(3) Respondent admits that on March 12, 1942, the Board's decision and order was served upon respondent as alleged in paragraph (3) of the Petition.

Further answering said Petition, and as cause why the Petition should not be granted and the enforcement thereof denied, and why said Order should be set aside respondent alleges:

(1) That the said Order of the National Labor Relations Board as set forth and contained in paragraph (2) of said Petition is wholly invalid and improper under the Act, and is contrary to law in that said Order is based on findings of fact which were not supported by substantial evidence.

(2) That the evidence is insufficient to support the findings of fact set forth in respondent's Exceptions to Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order, filed with the Board and made a part of the record in this proceeding, which Exceptions are hereby referred to and made a part hereof as fully as if set forth herein at length.

(3) That the evidence is insufficient to support or justify the conclusions of law set forth and contained in respondent's Exceptions to Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order referred to in paragraph (2) hereof.

(4) That the evidence is insufficient to support or justify those portions of said Order of the National Labor Relations Board set forth and contained in respondent's Exceptions to Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order referred to in paragraph (2) hereof.

(5) That the evidence is insufficient to support any finding or conclusion of the National Labor Relations Board finding, holding or deciding that respondent interfered with, restrained or coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, or that respondent, by discharging Clifford Damschen, discriminated in regard to the hire and tenure of the employment, or interfered with, restrained or coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, or in any way violated the provisions of the National Labor Relations Law, and any such finding or conclusion is contrary to law.

(6) That the findings of fact, conclusions of law and order of the National Labor Relations Board made in this proceeding deny to respondent and to its employees the freedom of speech guaranteed by

the First Amendment to the Constitution of the United States, and are in conflict with that clause of said First Amendment which provides that Congress shall make no law abridging the freedom of speech or of the press.

Wherefore, respondent prays for a decree of this Court that said Petition for Enforcement of An Order of the National Labor Relations Board be dismissed and that the Order of the National Labor Relations Board set forth in said Petition be set aside and enforcement thereof denied.

Dated at Coeur d'Alene, Idaho, this 7th day of May, A. D. 1942.

C. H. POTTS

Attorney for Respondent,

Residence and Post Office

Address: Coeur d'Alene, Idaho

State of Idaho,

County of Kootenai—ss.

C. H. Potts, being first duly sworn, on oath deposes and says: That he is the attorney for Schaefer-Hitchcock Company, the respondent in the above entitled proceeding; that he is authorized to and does make this verification for and on behalf of said respondent; that he has read the foregoing answer and has knowledge of the contents thereof; and that the statements made therein are true to

the best of his knowledge, information, and belief.

C. H. POTTS

Subscribed and sworn to before me this 7th day of May, A. D. 1942.

(Seal) WILLIAM McFARLAND

Notary Public in and for the State of Idaho,
residing at Coeur d'Alene, Idaho.

My commission expires July 29, 1942.

AFFIDAVIT OF MAILING

State of Idaho,
County of Kootenai—ss.

Mary McCartney, being first duly sworn, on oath deposes and says: That on the 7th day of May, A. D. 1942, she sent by registered mail, through the United States Post Office in Coeur d'Alene, Idaho, a copy of the within Answer to Petition for Enforcement of an Order of the National Labor Relations Board in the above entitled matter, addressed to Mr. Ernest A. Gross, Associate General Counsel, National Labor Relations Board, Shoreham Building, Washington, *C. D.*, and that postage and registry fees were paid and a return receipt was requested.

That at the time said copy was sent there was a regular communication by mail between Coeur d'Alene, Idaho, where affiant resides, and Washington, D. C., and that affiant made such service at the

request of C. H. Potts, attorney for respondent.

MARY McCARTNEY

Subscribed and sworn to before me this 7th day of May, A. D. 1942.

(Seal) C. H. POTTS

Notary Public in and for the State of Idaho,
residing at Coeur d'Alene, Idaho.

[Endorsed]: Filed May 11, 1942. Paul P. O'Brien,
Clerk.

[Title of Board and Cause.]

REPORTER'S TRANSCRIPT

City Hall,
Priest River, Idaho,
September 15, 1941.

The above-entitled matter came on for hearing at ten o'clock a.m., pursuant to notice, as follows:

Before: P. H. McNally, Trial Examiner.

Appearances:

Charles M. Brooks, Esq., 407 U. S. Court House, Seattle, Washington, appearing for National Labor Relations Board, Nineteenth Region.

C. H. Potts, Esq., Coeur d'Alene, Idaho, appearing for Schaefer-Hitchcock Company.

Charles A. Paddock, Esq., 737 East 34th Street, Spokane, Washington, appearing for the United Brotherhood of Carpenters and Joiners of America, affiliated with A F of L. [1*]

[*Page numbering appearing at top of page of original Reporter's Transcript.]

Proceedings

Trial Examiner McNally: Are you ready, gentlemen?

Mr. Brooks: Yes.

Mr. Potts: Yes, we are ready.

Trial Examiner McNally: The hearing will come to order. Please do not smoke in the hearing room. We will have recesses from time to time so that anyone who desires to smoke may step outside and do so. This is a formal hearing before the National Labor Relations Board in the matter of the Schaefer-Hitchcock Company and Lumber and Sawmill Workers Union Local 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, being case No. XIX-C-896. The trial examiner appearing for the National Labor Relations Board is P. H. McNally. Counsel will please state their appearances for the record.

Mr. Brooks: Charles M. Brooks, appearing for the National Labor Relations Board.

Mr. Potts: C. H. Potts, appearing for the respondent, Schaefer-Hitchcock Company, post office address, Coeur d'Alene, Idaho.

Mr. Paddock: Charles A. Paddock, for the United Brotherhood of Carpenters & Joiners of America, affiliated with the A F of L.

Trial Examiner McNally: I wish to inform all parties [4] that the official reporter makes the only official transcript of these proceedings. Citations

in briefs or arguments based upon the record directed to the trial examiner or to the Board, must cite the official transcript in all references to the record. The Board will not certify any transcript other than the official transcript for use in any court litigation.

It may become necessary to make corrections in the record during the hearing, and if so, the party desiring the correction will submit the suggested correction to the other party or parties in writing. When this has received the written approval of the other parties it will be submitted to the trial examiner. In event the parties are unable to agree upon proposed corrections, the trial examiner will then consider motions to correct the record, or may, upon his own motion, order certain corrections in the transcript. If the parties have been unable to agree upon such corrections before the close of the hearing but have entered into a stipulation concerning such matters after the close of the hearing but prior to the receipt of the intermediate report, such stipulations or motions with respect to corrections in the transcript or record should be addressed to the trial examiner in care of the chief trial examiner in Washington. After receipt of the intermediate report all such communications should be directed to the Board itself, [5] inasmuch as the trial examiner's connection with the case ceases upon the filing of his intermediate report with the regional director, at which time the Board transfers the case to itself.

This is a formal hearing, and I request that you maintain the decorum that accompanies judicial proceedings.

Concise statements of the reasons for motions or objections will be permitted. Arguments with respect to the same will not ordinarily appear in the record or the official transcript. If counsel desire to argue objections, they will please so indicate to the trial examiner, who may, if he deems argument necessary, go "off the record" for the purpose of hearing such argument. It is to be understood that the official reporter takes everything that is said during the hearing by counsel, by witnesses and the trial examiner unless the trial examiner orders an "off the record" discussion. All requests from counsel to go off the record are to be directed to the trial examiner and not to the official reporter.

The trial examiner will allow an automatic exception to all adverse rulings during the course of the hearing, and upon appropriate order an objection and exception will be permitted to stand to an entire line of questioning.

Four copies of all pleadings admitted during the hearing are to be filed with the trial examiner. [6]

At the close of the hearing the parties may, if they so desire, argue orally before the trial examiner. Similarly, they may file briefs with the trial examiner within fifteen days from the close of the hearing. Such briefs shall be directed to the trial examiner in care of the chief trial examiner in Washington.

I make this announcement at this time in order that the parties may plan their case and schedule accordingly.

You may proceed, Mr. Brooks.

Mr. Brooks: Mr. Examiner, at this time I request the reporter to mark certain papers contained in this folder, which are the formal papers and pleadings thus far filed in this proceeding. I would request that this be marked as Board's Exhibit 1 and subdivided as follows: 1-A, a charge of the Lumber and Sawmill Workers Union, Local 2614; 1-B, the complaint, notice of hearing and instructions relative to duplicate exhibits, all issued by the regional director for the 19th Region; 1-C, the affidavit as to service of the charge, complaint, notice of hearing and rules and regulations, Series 2, as Amended; 1-D, the answer filed by respondent Schaefer-Hitchcock Company; 1-E, the proof of service of the answer; 1-F, a certified copy of the order designating P. H. McNally to act as trial examiner in this case.

I offer Board's Exhibit 1 as indicated into evidence, [7] and have here a duplicate of each of the exhibits described.

(File referred to was marked as Board's Exhibit 1, A to F, inclusive, for identification.)

Trial Examiner McNally: Any objection?

Mr. Potts: No.

Trial Examiner McNally: Board's Exhibits 1-A to 1-F will be received.

(File heretofore marked for identification as Board's Exhibit 1, A to F, received in evidence.)

Mr. Brooks: May we be off the record?

Trial Examiner McNally: Off the record.

(Whereupon there was some discussion off the record.)

Mr. Brooks: I now request the reporter to mark this document entitled "Stipulation" as Board's Exhibit 2, and will at this time offer Board's Exhibit 2 into evidence with the request that we may be permitted to withdraw it after it is in the office of the reporter in Seattle for the privilege of making additional copies in the office of the Board in Seattle.

Trial Examiner McNally: Off the record.

(Whereupon there was some discussion off the record.)

Trial Examiner McNally: Is there any objection to the offer of Board's Exhibit 2 for identification?

Mr. Potts: We have no objection.

Trial Examiner McNally: Board's Exhibit No. 2 will be received.

(Document referred to was marked as Board's Exhibit No. 2 for identification and received in evidence.) [8]

BOARD EXHIBIT No. 2

[Title of Board and Cause.]

STIPULATION

It is hereby stipulated and agreed by and between Schaefer-Hitchcock Company, through its attorney, C. H. Potts, and Charles M. Brooks, Regional Attorney for the National Labor Relations Board, 19th Region, that the following facts may be received in evidence in the within case, and given the same effect as if they were testified to *be* competent witnesses; it is further agreed that neither party is precluded from offering additional evidence concerning the business of respondent in this case:

(1) Schaefer-Hitchcock Company, respondent herein is, and at all times since 1930 has been, a corporation incorporated and existing under the laws of the State of Idaho, with its principal office at Sandpoint, Idaho. Respondent is engaged principally in the business of manufacturing and processing poles. In the conduct of its business, respondent owns and operates manufacturing and processing plants at Priest River, Bovill and Sandpoint, Idaho and at Minneapolis, Minnesota.

(2) In the conduct and operation of its Priest River plant, respondent uses annually approximately 21,680 poles, and approximately 105,800 gallons of creosote. All of said creosote is purchased and shipped from points outside the State of Idaho to the Priest River plant. Approximately ten per cent (10%) of said poles are purchased and shipped

from points outside the State of Idaho to the Priest River plant. Approximately 30,000 poles are annually handled or processed at respondent's Priest River plant, of which amount approximately eighty-five per cent (85%) is sold and shipped to points outside the State of Idaho from respondent's Priest River plant. The approximate value of the poles sold at the Priest River plant annually is \$148,000.00.

(3) The number of employees at respondent's Priest River plant varies from twenty (20) to seventy (70). There are presently employed at said Priest River plant fifty-five (55) employees.

(4) Lumber and Sawmill Workers Union, Local 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, is a labor organization within the meaning of Section 2, Subsection (5) of the National Labor Relations Act.

Dated at Priest River, Idaho this 15th day of September, 1941.

SCHAEFER-HITCHCOCK COMPANY

By: C. H. POTTS,

Attorney

CHAS. M. BROOKS,

Regional Attorney,

National Labor Relations Board,

19th Region.

Trial Examiner McNally: Is there any objection to the application of Mr. Brooks to withdraw the exhibit for purposes of making necessary copies for all parties?

Mr. Potts: No objection.

Trial Examiner McNally: The permission will be granted to Mr. Brooks as requested.

Mr. Brooks: Mr. Examiner, it will be noted that the charge which is in evidence as Board's Exhibit 1-A varies as to the caption from the caption on the complaint as to the true name of the respondent. In the caption of the charge it is "Schaeffer-Hitchcox Pole Company". I move at this time to amend the caption of the charge to conform with the caption as it appears in the complaint.

Trial Examiner McNally: Any objection?

Mr. Potts: No.

Trial Examiner McNally: The motion will be granted.

Mr. Brooks: I call Mr. Clifford Damschen.

CLIFFORD DAMSCHEN

a witness called by and on behalf of the Board, was duly sworn and was examined and testified as follows:

Direct Examination

Q. (By Mr. Brooks) State your name.

A. Clifford Damschen.

Q. Spell it.

(Testimony of Clifford Damschen.)

A. D-a-m-s-c-h-en (spelling). [9]

Q. Are you the Clifford Damschen named in the complaint in this matter? A. I am.

Q. What is your mailing address, Mr. Damschen?

A. Priest River, Idaho, Route 1.

Q. Have you formerly been employed by the Schaefer-Hitchcock Company, respondent in this case? A. Yes.

Q. When did you first go to work for the respondent?

A. I first went to work for them in the spring of 1934.

Q. How long did you work approximately after you went to work in the spring of 1934?

A. Approximately a month.

Q. And what happened then?

A. I was laid off along with the majority of the rest of the crew.

Q. Was there a reduction of the operations?

A. Yes.

Q. Was that at the respondent's pole yard here in Priest River? A. It was.

Q. What was your work at that time; that is, in 1934, until you were laid off?

A. Common labor, as near as I can remember; hooking chain, I believe. [10]

Q. Can you describe for us just briefly and generally the type of operations that are carried on at the pole yard here?

(Testimony of Clifford Damschen.)

A. I don't know just how to go about it to explain it.

Q. Just tell us what the employees there do at the yard?

A. Well, they are driving team and hooking chain. Of course at that time there was no tractor, but now there is tractors,—driving and tailing down.

Q. In the tractor driving job does the tractor hook onto and grab the poles with the chain and drag them to the place where they are wanted?

A. It does.

Q. Now, when did you next go back to work for the company after your layoff in the spring of 1934?

A. In the spring of 1935.

Q. What was your job when you went back in the spring of 1935?

A. Odd jobs such as hooking chain and working on skidways.

Q. By hooking chain, you mean hooking a chain onto the logs or poles, is that right?

A. That is right, for the teams, yes.

Q. When did you last work for the respondent?

A. March 19, 1941.

Q. What was your job at that time?

A. Driving tractor. [11]

Q. How long had you been driving a tractor?

A. Approximately four years.

Trial Examiner McNally: I understand that the

(Testimony of Clifford Damschen.)

witness worked for the company continuously from the spring of 1935?

Mr. Brooks: I am going to ask him that right now.

Trial Examiner McNally: Proceed.

Q. (By Mr. Brooks) Did you, Mr. Damschen, work for the respondent company continuously from 1935 until March 19, 1941?

A. There were short layoffs. I was dependent on their payroll entirely.

Q. From the time you started driving tractor, which you stated was about four years prior to March 19, 1941, were you laid off at any time when the pole yard was operated?

A. Not if it was operated with any force at all.

Q. In other words, if the pole yard was handling poles, did you work? A. Yes.

Q. Were there occasions when you were laid off from the tractor job and placed on other jobs?

A. Yes.

Q. What was your rate of pay when you went to work for the respondent in the spring of 1935, if you remember?

Mr. Potts: Objected to as immaterial.

Trial Examiner McNally: He may answer. [12]

A. I would have to guess at it more or less. I believe it was about forty cents.

Q. What was your rate of pay on March 19, 1941? A. 60 cents.

Q. How long had you been receiving 60 cents?

(Testimony of Clifford Damschen.)

A. Since the first of 1941, January 1.

Q. And what was your rate of pay immediately prior to the first of 1941? A. 55 cents.

Q. Mr. Damschen, prior to January 1941, to your knowledge, had there been any union activity among the employees of the respondent at Priest River? A. No.

Q. Prior to January, 1941, had you yourself engaged in any kind of activity on behalf of a labor organization?

A. At that time not directly in the yard. I had been talking to a friend of mine that was in the organization and was attempting to get him to send someone up here, but I had not talked to anyone in the yard at that time.

Q. When did you start talking to this friend of yours?

A. Sometime in January, I would say.

Q. 1941?

A. 1941. No, 1940. Pardon me, yes, 1941.

Q. You say you requested this friend to get someone to come up here? [13]

A. Yes.

Q. What do you mean? Get a labor organizer here? A. An organizer, yes.

Q. Did anything happen as a result of your conversations with this friend of yours?

A. It did. On February 10 an organizer came into Priest River.

Q. Who was this man?

(Testimony of Clifford Damschen.)

A. Ed Belden, from Spokane.

Q. Beldon?

A. Belden, B-e-l-d-e-n (spells it).

Q. And that was on February 10, 1940?

A. Yes.

Q. Was this man or friend of yours that you had been talking to, a member of any organization at that time, if you know? A. Yes, he was.

Q. Where was he a member?

A. He was a member of the Newport Local 2614 at Newport, Washington.

Q. And Newport is about seven miles from here, isn't it? A. Yes.

Q. What happened on the 10th of February when Mr. Belden came in?

A. He came down to the outskirts of the yard and inquired [14] for me, so I understand, and I was pointed out by a fellow worker, and he talked to me and said that he had understood I wanted him to come up and wanted to know if I could not help him call the boys together to hold a meeting that night.

Q. Where did you have this conversation with Mr. Belden on February 10?

A. At the outskirts of the Schaefer-Hitchcock pole yard.

Q. And what, if anything, did you do that day after you had talked to Mr. Belden?

A. I went around and tried to catch part of the crew or as many of the boys as possible, but most

(Testimony of Clifford Damschen.)

of them had gone home. I talked to three or four, and we decided that it was not enough to bother with. So we agreed that I would tell the boys next day, and we would attempt to hold a meeting on the 11th.

Q. And as I understand, you talked to several of the employees of the respondent on the afternoon of February 10 around town? A. Yes.

Q. And did you on that day make any effort or take any steps toward becoming a member of Local 2614?

A. I did. I signed up on the 10th.

Q. Was that an application for membership in the local? A. That was. [15]

Q. What, if anything, happened on the following day, which would be February 11, with respect to your connection with Mr. Belden?

A. I talked to several of the boys the following day and told them there would be a meeting at 7 o'clock that night in Wright's hall.

Q. Wright's? A. Wright's hall.

Q. And that is located in the town of Priest River? A. Yes.

Q. Was there a meeting that night?

A. There was.

Q. Were you present? A. Yes.

Q. After this meeting of February 11 did you continue to talk to the employees about unions and labor organizations? A. Yes, I did.

Q. Did you just talk to a few of them or was

(Testimony of Clifford Damschen.)

that general? Did you talk to a number of them?

A. Not the entire crew, of course; the majority of them.

Q. You say you talked to the majority of them?

A. Yes.

Q. I would like to direct your attention to February 15, 1941. Were you invited on that day to attend a meeting of the employees of the respondent? [16]

A. I was.

Q. Who invited you? A. Con Wear.

Q. Con Wear? A. Yes.

Q. That is spelled "W-e-a-r"?

A. I think so.

Q. Who is and who was Con Wear at that time?

A. He was what I call the straw boss.

Q. What did he do? He worked at the pole yard, I presume?

A. He worked at the pole yard, yes.

Q. What did he do at the pole yard?

A. Mostly going around directing the crew.

Q. Did he ever give you orders? A. Yes.

Q. Who at that time, in February, 1941, was in charge of the yard, the entire yard?

A. Pat Conlee.

Q. Pat Conlee (spells it)? A. Yes.

Q. Were there any occasions to your knowledge when Pat Conlee was away from the yard for a day or more? A. Yes.

Q. Who, if anyone, replaced him?

A. Con Wear. [17]

(Testimony of Clifford Damschen.)

Q. Where did Con Wear speak to you on February 15 with reference to this meeting?

A. On the main street in Priest River.

Q. Was there anyone else present? A. No.

Q. Tell what Wear said to you and what you said to him on that occasion?

A. He came up to me and said, "Clif, we are going to have a little meeting at the Peterson Hotel at 4 o'clock." He said, "And I would like to have you attend. We are going to discuss this union thing and decide whether to join a union or not." I asked him who was going to be there to represent the union and he said this wasn't going to be that kind of a meeting; it was just going to be a friendly chat among the workers to see what they thought about unions. I told him I did not believe that would be a very appropriate meeting without someone to discuss the union, because none of the boys really knew what a union was, and he said that,—I suggested having an organizer there to tell what the union was, and that we would have one up in a few days and he could get him to testify for us. And he said, "Well, you can have your union men if you want them, but this is just going to be a friendly chat among the workers."

Q. Did you have reference to any particular individual when you stated to Mr. Wear that you were going to have an [18] organizer up in a few days? A. Yes, I did.

Q. Who was that? A. Ed Belden.

(Testimony of Clifford Damschen.)

Q. Did you attend that meeting at the Peterson Hotel on February 15? A. I did.

Q. Were there other employees of the respondent present? A. Yes, there were.

Q. Can you tell us approximately how many were present? A. Approximately 21.

Q. Do you know how many approximately were working at the yard at that time?

A. I would say approximately 26.

Q. Tell us what happened at that meeting, Mr. Damschen? What was said?

A. Well, while we were waiting for a majority of the crew to arrive it was more of a general visit, and then as I remember it Ed Gillespie said, "Well, let's get this thing over with and find out what we are going to do." As I remember then, I asked this Ed Gillespie who was going to do the talking, and Con Wear said, "Well, our foreman, Mr. Conlee, is here with us. He has had some good experience with unions back east, and I believe he can tell us a whole lot about them." [19]

Q. Let me interrupt a moment. Was this Con Wear that you have mentioned the same man that invited you and the man whom you identify as the straw boss? A. It was.

Q. And is Mr. Conlee, to whom Mr. Wear referred, the Pat Conlee who is the general foreman in charge of the pole yard? A. Yes.

Q. Can you tell us what was said after Mr. Wear made that statement about Mr. Conlee?

(Testimony of Clifford Damschen.)

A. Mr. Conlee started to speak. He said, "Boys, as far as I can see, everything has been going rosy in the yard. I thought we were getting along swell. And I believe if any of you fellows have any troubles to be settled you could come to me, and if I can't do anything for you, I will go higher." He said, "I have had experience with unions back east." He said, "They went out on strike and lost much more than they gained by their strike." He said, "They can call you out on strike any time they want to and tax you on your dues." And I interrupted him there and said I understood that men in the local had the right to vote as to whether they were taxed or went out on strike. And he said, "Yes, but they tell you how to vote." Then I suggested that there was several who did not understand what the union was and we should have an organizer or someone there to defend the union and [20] make it a two-sided discussion. Pat said, "That would not be a two-sided discussion. Them fellows have answers for every question you ask. They can paint some beautiful pictures, but I never seen one developed."

Q. Was that last statement that you made the statement that Mr. Pat Conlee made to you in reply to your statement to him?

A. Pardon?

Mr. Brooks: Read my question.

(Question read).

A. (Witness pauses.)

Q. I will reframe my question. You apparently

(Testimony of Clifford Damschen.)

don't understand it. This conversation that you just related where you talked about organizers painting a picture and so forth was the conversation that occurred between you and Mr. Pat Conlee at that meeting? A. Yes.

Q. Go ahead and tell us what else happened after you had this exchange of remarks?

A. I went on to tell the fellows I thought there was several that really were not satisfied with wages and working conditions, and I informed them, —also mentioned my own wages. Pat Conlee asked me where they paid any more for my type of work, and I told him at the Newport yard or most any place that they used tractors. [21]

Q. Now, was anything said at that meeting with reference to the possibility or probability of a union organizer being in the town of Priest River sometime in the future?

A. Yes, I mentioned the fact that Ed Belden would be in the following Wednesday.

Q. Did you make any suggestion of any kind with reference to that?

A. I believe I related that he would be in and we could have a two-sided meeting.

Q. And that was the time you were for the two-sided meeting? A. Yes.

Q. Was there any vote taken at that meeting?

A. There was not.

Q. Was any vote suggested? A. Yes.

Q. What happened with respect to that suggestion?

(Testimony of Clifford Damschen.)

A. One of the workers suggested taking a vote and getting it over with, and I said we could not vote intelligently unless we heard both sides of the storey. So the meeting broke up without a vote.

Q. Do you recall anything else that was said after that meeting with reference to this union question?

A. George Cronkright gave a short talk.

Q. Let's identify him. Is that Cronkright C-r-o-n-k-r-i-g-h-t? [22]

A. I believe that is right.

Q. George Cronkright. Tell us who he was at that time?

A. As far as I know he was checker in the yard, pole checker.

Q. Go ahead and tell us what Mr. Cronkright said?

A. He told us about the recently purchased Bovill yard at Bovill, Idaho, that they had had a union there when the Schaefer-Hitchcock Company bought the place, and he expressed the opinion that they were very glad to go ahead with the new company without a union.

Q. Who? The employees?

A. The employees at the yard at Bovill.

Q. Did Cronkright state whether or not he had been to the Bovill yard?

A. I don't know as he did at this particular meeting.

Q. How do you spell Bovill? B-o-v-i-l-l (spell-

(Testimony of Clifford Damschen.)

ing)? I believe that is correct. That is a town in Idaho? A. Yes.

Q. After this meeting of February 15, 1941, about which you have been telling us, did you continue to talk to the employees of respondent at the pole yard—— A. I did.

Q. ——about unions? A. I did.

Q. Do you recall having a conversation with Con Wear some [23] few days after this February 15 meeting at which time unions were mentioned?

A. Yes.

Q. Where did that occur?

A. At the Peterson Beer Parlor.

Q. Who was present?

A. It was Con Wear, John Cronkright, Fay Dempsey and myself.

Q. Is this John Cronkright related to George Cronkright? A. He is George's son.

Q. First, can you tell me about how long after the February 15 meeting this occurred?

A. Approximately a week.

Q. Tell us what the conversation was at that time?

A. I don't remember just how it was brought up, but Con Wear brought up the union discussion, and he said we had been getting along pretty well and he hated to see a union come in and break us up. Then I told him I had not been satisfied with my wages for sometime, and he said, "Well, I believe we can straighten things out without a union."

(Testimony of Clifford Damschen.)

Q. Was that about all the conversation?

A. That is about all I remember.

Q. Directing your attention now to March 19, 1941, you have stated that that is the last day you worked there for the respondent. Will you tell us what happened on that date with reference to your employment with the company? [24]

A. Yes, it was payday at the yard, and I went in to get my check, and when I stepped in I was handed two checks, one paying me for two weeks or up until the 15th; and I was handed a second check paying me up until and including the 19th, up until 4 o'clock the 19th. It was handed to me by Pat Conlee. And he said, "That will be all for you, Clif." I stepped out the door. I did not know just what it was all about. But I turned around and walked back in and asked him, "Do you mean you don't want me to come back tomorrow?" He said, "That is right. We are cutting down the force. We won't be needing you any more."

Q. You have stated that you have been laid off on other occasions when the yard ceased operating for a while. On those occasions did you get paid right up to the minute that you were handed your check? A. No, I never did.

Q. Well, what happened with respect to the balance that was due you? How did you get your check?

A. It was either carried over until the regular

(Testimony of Clifford Damschen.)

payday, or we would get a time slip and go to Sandpoint to get our money.

Q. The offices of the company where Mr. Schaefer and Mr. Hitchcock are located are in the town of Sandpoint, Idaho, is that right?

A. Yes.

Q. And that is where you would go to get your checks? [25]

A. Yes.

Q. How far is Sandpoint from Priest River, approximately?

A. About thirty miles.

Q. Did Mr. Conlee give you any reason for telling you that you were through, except that they were cutting down on the force?

A. No.

Q. You were driving a tractor at that time?

A. Yes.

Q. How many tractors were operating at the pole yard?

A. Three.

Q. Who were the other employees operating these tractors besides yourself?

A. At that time it was Fay Dempsey and Clyde Wear.

Q. Were you operating a tractor for the company before Fay Dempsey?

A. Yes.

Q. I believe you stated you had been running a tractor about four years?

A. Yes.

Q. Do you know how long Fay Dempsey had been running a tractor there?

A. I would say two and a half years off and on.

Q. The other man was Clyde Wear?

A. Yes. [26]

(Testimony of Clifford Damschen.)

Q. Is Clyde Wear any relation to Con Wear?

A. Yes, he is a brother.

Q. How long had Con Wear,—I mean Clyde Wear been operating a tractor at that time, that is, March 19?

A. Approximately a week.

Q. Do you know whether or not either Fay Dempsey or Clyde Wear were laid off at that time or discharged?

A. They were not.

Q. Have you ever before during the four years you operated the tractor been taken off the tractor if even one tractor was running?

A. I recall once that I was taken off for a week.

Q. And were you laid off or put on another job?

A. I was put on another job.

Q. What was the other job?

A. Driving a team.

Q. And that continued for about a week?

A. Yes.

Q. And then did you go back on the tractor?

A. Yes.

Q. What type of jobs around the pole yard have you not done, Mr. Damschen, in your experience with this company?

A. I have not loaded poles or fired boiler.

Q. Have you done all the other jobs?

A. I have not run the loader or puncturing machine or [27] turning lathe.

Q. What are the different jobs that you have done besides driving a tractor and driving a team?

(Testimony of Clifford Damschen.)

A. I have tailed down.

Q. What is that?

A. That is roll poles off the track onto the skidways. I have sawed at the crosscut saw. I have worked on the vats. I have hooked chain. I have decked poles.

Q. What does decked poles mean?

A. That is piling poles up into piles. And I have worked with the decking crew when others were decking poles, and I have drove a tractor.

Q. And you have already told us you have driven team? A. Yes; that is about all.

Q. Do you know whether or not there were any employees continued in the employ of the company on March 19 that had been working for the company a shorter time than you? A. Yes.

Q. Can you name any of them?

A. Yes; in fact, the greatest majority of the crew, though there was a few hired just previous to my layoff.

Q. There were a few hired just prior to your layoff? A. Yes.

Q. Who were those persons? [28]

A. Joe Crane, Jack Guptil.

Q. G-u-p-t-i-l (spells it)? Is that the way to spell his name?

A. I think so. And Jens Knutson.

Q. That is Jens K-n-u-t-s-o-n (spells it)?

A. Yes. And John Ferguson.

Trial Examiner McNally: Ferguson?

(Testimony of Clifford Damschen.)

The Witness: Ferguson.

A. That is all I can recall from memory.

Q. Do you know whether or not Joe Crane continued to work after you were dismissed on the 19th?

A. He did.

Q. Do you know whether or not Jens Knutson continued to work after your dismissal on the 19th?

A. He did.

Q. Did, if you know, Guptil continue to work after your dismissal?

A. Yes, he did.

Q. And did Ferguson, if you know, continue to work after your dismissal?

A. Yes.

Q. What job was Joe Crane doing, if you know?

A. Driving team.

Q. What job was Knutson doing, if you know?

A. He was helping build a bridge. [29]

Q. What job was Guptil doing, if you know?

A. I don't know exactly. I believe he was working on the skidway.

Q. Have you done that kind of work previously?

A. Yes.

Q. What kind of a job was Ferguson doing?

A. He was building a bridge.

Q. After your dismissal on the 19th what, if anything, did you do with reference to that?

A. I went directly to Newport that evening and contacted the president of the union, Local 2614.

Q. And that man's name was what?

A. Clarence Butler.

(Testimony of Clifford Damschen.)

Q. Did anyone connected with the Brotherhood of Carpenters and Joiners or with the local or both get in touch with you shortly after your dismissal for the purpose of assisting you in getting reinstated? A. Yes.

Q. Who?

A. Clarence Butler and C. A. Paddock.

Q. Clarence Butler was president of the local and Mr. Paddock is the man at the table here (indicating Mr. Paddock)? A. Yes.

Q. When was that, if you remember?

A. March 22, 1941. [30]

Q. Did they come to Priest River?

A. Yes.

Q. What, if anything, did you and Mr. Butler and Mr. Paddock do?

A. First we went down to the pole yard to talk with Pat Conlee.

Q. Did you go into the yard?

A. I went into the yard but I did not go with them to talk with Mr. Conlee.

Q. But Mr. Butler and Mr. Paddock went over for the purpose of talking with Conlee?

A. Yes.

Q. But you were not present at any conversation they might have had?

A. No.

Q. After that what did you do?

A. From there we went to Sandpoint to talk

(Testimony of Clifford Damschen.)

with Mr. Schaefer and Mr. Hitchcock at their Sandpoint office.

Q. That was on the same day, March 22?

A. March 22, the same day.

Q. Did you have a conference with Mr. Schaefer and Mr. Hitchcock? A. Yes.

Q. Where did that occur?

A. In the Schaefer-Hitchcock office at Sandpoint. [31]

Q. Tell us who was present?

A. There was Mr. Hitchcock and Mr. Schaefer and Mr. Paddock and Mr. Butler and myself.

Q. Relate the conversations had at that time as far as you can, Mr. Damschen?

A. Mr. Paddock introduced himself and carried most of the conversation to start with, telling them why he was there, recalling this fact that I had been laid off and also reminded them of the meeting here on the 15th, and said he wanted to know why I was discharged. Mr. Schaefer said, "He was rough on the machinery. I caught him jerking the tractor, and I told Pat to can him." He said, "A few days ago I seen a man jerking a team, and I told Pat to can him." Then he asked me, "I understand you told someone you had not been satisfied with your wages for three years." I said, "That is right." He said, "By God, if a man ain't satisfied there, he can quit." I told Mr. Schaefer I thought there had been a mistake in my discharge and I would like to go back to work. And he told me,—he said, "I am

(Testimony of Clifford Damschen.)

not running that yard; Pat Conlee is. And if he wants to put you back to work, all right, and if he don't, all right." But he said, "I am not going to put you back on the tractor." So Mr. Paddock asked him if it would not be better if he would talk to Mr. Conlee, and I could talk to Mr. Schaefer that same evening and see what the results [32] were.

Q. Mr. Schaefer maintains his home in Priest River, does he not? A. Yes.

Q. Was anything said at that meeting about raising the wages?

A. Yes, Mr. Schaefer said something,—I don't remember just how he said it, but he told us they were raising the wages five cents at the yard.

Q. Was the Bovill yard of the respondent company mentioned?

A. Yes, Mr. Schaefer said something about purchasing the Bovill yard, and he said it appeared to him they were glad to go to work down there under the new setup without a union. Paddock told him that there was something wrong there somewhere, because he had received mail from the Bovill yard that there was something wrong and wanted someone to come up. Mr. Schaefer said, "That may be true. They may have changed their mind since I heard of it."

Q. You have told us that Mr. Schaefer said something about you jerking a tractor. Had you ever heard that accusation before? A. No.

(Testimony of Clifford Damschen.)

Q. Had Mr. Conlee ever told you your work was unsatisfactory? A. No.

Q. Had he ever criticized you for your work in any way? A. No. [33]

Q. Had Mr. Schaefer? A. No.

Q. Had Mr. Con Wear? A. No.

Q. Had anybody? A. No.

Q. After the conference with Mr. Schaefer at his office on the 22nd did you then go to his house that night as you had planned to do?

A. I did.

Q. That is at his house in Priest River?

A. Yes.

Q. Did you go into Mr. Schaefer's house?

A. No, I did not.

Q. What happened when you went to the door?

A. Mr. Schaefer met me at the door and before I said anything he said, "I talked with Pat, and I can't do a thing right now. Maybe a little later on we can get this thing straightened out, but right now, I can't do a thing."

Q. Did Mr. Schaefer invite you in?

A. No.

Q. Did you have any further conversation other than that? A. No.

Q. That is all that was said?

A. That is all. [34]

Q. Did you after that talk with Mr. Schaefer at his door get in touch with Mr. Paddock?

A. Yes, I went to the telephone office at Priest

(Testimony of Clifford Damschen.)

River and called for Paddock at the Desert Hotel in Coeur d'Alene. I told him what Schaefer told me, and Mr. Paddock said, "Well, I guess the best thing we can do is turn it over to the Board." I agreed with him, and so that was all that was said.

Q. Did you desire reinstatement?

A. Yes.

Mr. Brooks: You may have the witness.

Cross Examination

Q. (By Mr. Potts) During the years that you have worked at the Priest River plant of the Schaefer-Hitchcock Company have you ever seen a seniority list posted anywhere about the plant or office? A. No, I have not.

Q. Have you ever known of seniority being in effect in that plant?

A. Not officially, no.

Q. Or any other way?

A. Well, it always appeared that they favored their oldest and best hands.

Q. Usually they favored the older men, didn't they? A. Yes. [35]

Q. There were other reasons why they favor some particular individual, were there not, besides their age or capability? A. I think so.

Q. For instance, take this man Fay Dempsey who was driving a tractor on March 19, of this year at the time you were laid off. Do you know anything about his physical condition at that time?

(Testimony of Clifford Damschen.)

A. I think so.

Q. How long had he been driving a tractor on that date?

A. Two and a half years or so off and on.

Q. And how long had he been driving a tractor continuously prior to that date?

A. I would say approximately a year.

Q. And at that time and for some time prior to March 19, 1941, he was in a physical condition so that he could not do heavy work, wasn't he?

A. That is right.

Q. And as far as work available in this plant is concerned, about all he could do was drive a tractor, wasn't it? A. That is right.

Q. So you would say he was retained to drive a tractor for that reason, wouldn't you?

Mr. Brooks: I object to that as calling for a conclusion of the witness and something that can't possibly be within the knowledge of this witness.

[36]

Mr. Potts: I don't think——

Trial Examiner McNally: Objection sustained.

Q. (By Mr. Potts) Now, you first commenced to work for the Schaefer-Hitchcock Company at what time? A. In the spring of 1934.

Q. And at that time you worked there only a short period? A. Yes.

Q. How long did you work altogether during the year 1934 after that?

(Testimony of Clifford Damschen.)

A. I could not be very accurate about that period. I would say approximately a month.

Q. What were you doing during that year?

A. Well, I was common laborer more or less; hook chain, if I remember right.

Q. So that the greater part of the year you were doing something else, other than working for them? A. Yes.

Q. Now, going to 1935, did you work any during that year at this plant? A. Yes.

Q. When did you start to work?

A. I believe it was the last day of April, 1935.

Q. How long did you work during that year?

A. Well, I worked four or five months at least, during the summer. And that winter the majority of the crew was [37] off more or less of the time.

Q. Anyhow, you were off, weren't you?

A. Yes.

Q. But there was always some members of the crew retained during the winter, wasn't there, while you were working there from the time you first started?

A. Yes, a few of the very oldest heads.

Q. The plant never closed down entirely?

A. Yes, it did.

Q. At what time? At any certain period?

A. No, no, sir. It may be today, and in a week it may run, and then it may be down a month.

Q. But when it is down are all the crew laid off?

(Testimony of Clifford Damschen.)

A. According to my knowledge perhaps a foreman is kept on the payroll. I don't know.

Q. If there is any shipping of poles a portion of the crew is required, isn't it? A. Yes.

Q. Even though no poles are being brought in from the woods? A. That is right.

Q. During the year 1935 you also worked as common laborer, didn't you? A. Yes.

Q. And what about 1936? [38]

A. More or less the same thing.

Q. What portion of that year did you work at the plant?

A. I cannot tell you very accurately. I would say about the same as 1935.

Q. Then in 1937 is that when you started driving a truck?

A. Driving a tractor, as near as I can remember.

Q. A tractor. Was that when the tractors were first installed or placed in operation in the yard?

A. There was one installed, but I did not go to work on it when it was first installed.

Q. How many tractors were operating at the time you first commenced driving a tractor?

A. One.

Q. And when did you start your tractor driving at the date you mentioned?

A. I went to work the last of April, 1935, but as to the actual date I started driving a tractor, I don't know.

Q. What year did you start?

(Testimony of Clifford Damschen.)

A. 1937 is as near as I can tell. I would say early spring before the snow went off.

Q. Did you drive a tractor all during the year 1937? A. I did.

Q. Weren't you laid off from time to time?

A. I think so, yes.

Q. Do you know how many days you were laid off? [39] A. No, I don't.

Q. Several, at least?

A. Several short periods.

Q. And for periods of weeks at a time?

A. I would not say weeks, I would say a week.

Q. You would say at no period were you laid off several weeks during that year?

A. It could be possible. I would not say.

Q. Did you continue driving a tractor in 1938 when you worked? A. I did.

Q. How much of the year did you work?

A. The majority of the year. I would not be too accurate on that.

Q. Again you were laid off from time to time?

A. Yes.

Q. And were you transferred to other work during that year at any time?

A. If the tractor did not run and there was other work to be done, yes.

Q. That is, if both conditions existed, if the tractor did not run and if there was other work available, you say? A. Yes.

(Testimony of Clifford Damschen.)

Q. But there were times when neither condition existed, weren't there? [40] A. Yes.

Q. And then you were laid off entirely?

A. Yes, along with a majority of the rest of the crew.

Q. And did you have that general setup during 1939 and 1940? Was there any change in the situation?

A. Yes, there was some change. I worked much steadier in 1939 and 1940.

Q. Driving a tractor or otherwise?

A. Mostly driving a tractor.

Q. But you were laid off for periods in each year, weren't you?

A. The last two years very little, and when that happened, they took in practically the entire crew.

Q. Were you driving tractor throughout the winter of 1940-41, that is, going back to the late fall of 1940 and extending through the winter of 1941?

A. I think so, yes.

Q. And three tractors were operating at that time, were they not? A. Not in 1940.

Q. The last part of 1940 and early part of 1941, prior to March 19th?

A. Two tractors more or less at that time.

Q. Did you not say there were three tractors operating?

A. At the time I left the yard. [41]

Q. How long had the three tractors been operating?

(Testimony of Clifford Damschen.)

A. I would say,—I really don't know what to say as to that,—I don't know.

Q. For some time, hadn't there,—more than a few days?

A. It was off and on. Do you remember I told Mr. Brooks Clyde had only been driving a week. His tractor was in the shed while the other two were driven. So this one, the light Fordson, was used very seldom in the yard. The majority of the time it was just the two tractors in the yard at the time I left there.

Q. Which tractor did you drive? Any special one?

A. Well, as an average rule, a special one, yes. I was driving an Allis Chalmers tractor, but there was times when Mr. Schaefer bought the Fordson with a set of plows that he sent me out to do some plowing, and when that tractor returned I skidded poles a while with it.

Q. Had there been any union activity or talk about a union coming into that plant prior to the first day of January, 1941, as far as you know?

A. Not that I know of; not that I know anything about.

Q. When did it first start?

A. Approximately the first of February, 1941.

Q. And did you start it? A. I did.

Q. Did you first take it up with some of the employees there? [42] A. I did.

(Testimony of Clifford Damschen.)

Q. Or did you first take it up with a union representative?

A. Well, I first mentioned it to a friend of mine that was working in the Newport yard, to send someone up here, but then I started talking to the fellows in the yard before I talked to an organizer.

Q. How many fellows in the yard did you talk to?

A. Up until the time I got signed up only about half a dozen.

Q. And who were they?

A. There was Fay Dempsey, Orville Gillespie, Claude and Harry Hustead.

Mr. Schaefer: H-u-s-t-e-d.

Q. (By Mr. Potts) Was that all?

A. That was all I can think of right now.

Q. Where did you talk to them? There in the yard?

A. Yes.

Q. Then was any arrangement made about getting in touch with the union representative by you and those men that you talked to?

A. Not by the men I talked to; by myself.

Q. They had no part in the activity of getting in touch with the union representative?

A. No, they did not.

Trial Examiner McNally: Is this a convenient time to recess? [43]

Mr. Potts: Yes.

Trial Examiner McNally: We will recess for ten minutes.

(Testimony of Clifford Damschen.)

(Whereupon a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner McNally: The hearing will come to order.

Q. (By Mr. Potts) Mr. Damschen, we were just talking about the other employees to whom you had mentioned or continued to discuss the matter of the union prior to the February 15 meeting, and my recollection is that you named four. I wish to ask you if those are all that you talked to prior to this meeting.

Mr. Brooks: May I inquire if that is prior to February 10?

Mr. Potts: February 15.

Mr. Brooks: Oh, February 15.

Mr. Potts: Yes, prior to February 15.

A. I talked to Jack Webb prior to February 15.

Q. (By Mr. Potts) You did mention an attempted meeting February 11, I believe?

A. Yes.

Q. Was that meeting held? A. Yes.

Q. But there were not many present?

A. There were not many present.

Trial Examiner McNally: I am not sure that the record [44] is clear on the period during which the witness testified that he talked to other employees. Counsel mentioned February 15. I understood the witness' testimony to be that he talked to about six men prior to the time that he himself signed up with the union.

(Testimony of Clifford Damschen.)

The Witness: Yes, that is right.

Mr. McNally: I don't know whether that is before February 15 or not.

The Witness: Up until the 15th there was very few that I had not talked to.

Q. (By Mr. Potts) Up to February 15?

A. Yes.

Q. When was it that you signed your application for membership in the union?

A. The 10th of February.

Q. 10th of February? A. Yes.

Q. And then you had invited several employees to attend this meeting on February 11, had you not?

A. Yes.

Q. How many did attend it?

A. Two besides myself.

Q. Two besides yourself. How many did you ask to be present?

A. Oh, the majority of the crew. [45]

Q. And the crew at that time had between 30 and 40 members, did it not?

A. A while ago I stated about 26.

Q. Was there any change in the number of the employees in the plant during February and March prior to the time you left? A. Yes.

Q. Had they increased or decreased?

A. Increased.

Q. Was that increase during the month of March? A. A great part of it, yes.

Q. Well, on March 19, without being absolutely

(Testimony of Clifford Damschen.)

accurate, do you think the employees then numbered about 37?

A. I don't think they numbered that many. It could be true.

Trial Examiner McNally: What was the number, please?

Mr. Potts: 37.

Q. (By Mr. Potts) When you attempted to hold this meeting on February 11 and two besides yourself attended, did you then take any further steps toward holding a meeting yourself? A. Yes.

Q. Did you arrange to have a meeting held?

A. Yes.

Q. When was it to have been held?

A. It was the Wednesday following the 15th. I am not sure of the date.

Q. Well, the 15th was Wednesday, was it not? [46]

A. It was on Saturday.

Q. Oh, that was Saturday. That is right. When did you make the arrangements to attempt to hold another meeting? Before or after the 15th?

A. Before. I made it at the meeting of the 11th.

Q. With these two others who were there?

A. Yes.

Q. But you had not done anything about it before you had your conversation with Mr. Wear about the meeting to be held on the 15th?

A. I don't quite understand the question.

Q. You had a conversation with Con Wear prior

(Testimony of Clifford Damschen.)

to February 15, the date on which you had a meeting. Had you talked to anybody about holding this other meeting later on prior to the conversation you had with Mr. Con Wear when he invited you to the meeting of the 15th?

A. I was invited to that meeting on the 15th.

Q. Well, had you talked to any of the men before you got that invitation about holding a meeting later than the 15th? A. I think so, yes.

Q. To whom had you talked besides the two men who met with you on the 11th?

A. That is pretty hard to recall. I know Fay Dempsey was one and Pete Morrow was one and Orville Gillespie was one [47] and the two Husted brothers. That is all I will say accurately.

Q. The same men that you talked to before about the meeting that you attempted to hold?

A. More or less, yes.

Q. Where did you meet Con Wear or where did he meet you when you had the conversation at which he invited you to attend this meeting on the 15th? A. Where did we what?

Q. Where did you meet?

A. When he invited me?

Q. Yes.

A. On the street in Priest River.

Q. On the street here? A. Yes.

Q. That was on Saturday morning, was it?

A. No, after work, just prior to the meeting.

Q. And he came to see you, did he?

(Testimony of Clifford Damschen.)

A. We just happened to meet on the street.

Q. What did he say to you?

A. He said, "Cliff, we are going to hold a meeting in the Peterson Hotel at 4 o'clock to discuss this union thing." He said, "We would like to have you attend." I asked him who was going to be there to defend the union, and he said no one, that it was just going to be a friendly chat among the workers as to whether they would join a union or not. [48] I told him I did not think it was a proper kind of a meeting to hold, that we should have somebody to discuss the inside of the story, and that we were to have an organizer come up in a few days; and we would have a two-sided meeting. He said, "That is all right. You have your two-sided meeting if you want to, but this is just going to be a friendly chat among the workers, and we would like to have you come."

Q. And you attended the meeting in response to the invitation? A. I did.

Q. Did you attempt to get an organizer or any union representative to attend the meeting with you?

A. Not at that time. There wasn't time.

Q. Now, when you arrived,—you say the meeting was held at the Peterson Hotel?

A. That is right.

Q. In what place in the hotel?

A. They have a large room in the back end.

(Testimony of Clifford Damschen.)

Q. At what time of day did the meeting convene?
When did you get there?

A. As near as I can remember, it was 4 o'clock,
4 or 4:30.

Q. Did you go alone or with someone?

A. There was a group of us who went more or
less together.

Q. A group. [49]

A. We sort of congregated on the street and got
together and went in in a group.

Q. When you arrived had others already gathered?
Were there others already present?

A. I believe we all went in more or less together.
We congregated on the street.

Q. And when you got into this room you think
there were about 21 of you altogether?

A. I think so.

Q. Now, what was the arrangement there? Were
there chairs in which you sat?

A. Yes, there were chairs and a davenport and
there were too many,—there weren't chairs enough
to accommodate the men, and there were several
who sat on the floor.

Q. And you just held an informal talk, did you
not, among yourselves?

A. To start with, yes.

Q. You had no chairman, did you?

A. No.

Q. There was no chairman of the meeting or

(Testimony of Clifford Damschen.)

anybody who presided or acted as a presiding officer? A. Not that I know of.

Q. No secretary? A. No.

Q. How long did that meeting last?

A. I think three quarters of an hour. [50]

Q. After you had settled down and commenced to talk several employees expressed themselves, didn't they? A. Yes.

Q. And isn't it a fact that before Mr. Conlee, the foreman, said anything that a number of the employees had already talked?

A. That is not true.

Q. Do you mean to say that he spoke first?

A. He did not speak first, but not a number of them spoke.

Q. How many had spoken before he did?

A. There was nobody spoke on the union as I remember. The first one to speak was Con Wear introducing Mr. Con Wear.

Q. Didn't Ed Gillespie say something about asking Mr. Conlee to speak?

A. As I remember, Ed Gillespie only said, "Let's get this thing started. Who is going to do the talking?"

Q. And didn't he say, "We have Mr. Conlee here, and he has had experience with the unions."

A. No, he did not say it.

Q. Did anybody say it?

A. Con Wear said, "We have Pat Conlee, the foreman, and he has had experience with the unions

(Testimony of Clifford Damschen.)

back east, and I believe he can give us some pretty good information.

Q. Did Mr. Conlee arise then and start to talk?

[51]

A. No, he did not. He remained seated.

Q. And he just spoke in a conversational way?

A. Yes.

Q. Now, did he not first say at the very outset that as far as the company was concerned, they did not care whether the men joined the union or not?

A. I don't remember him saying it in that way.

Q. Didn't he make a statement to that effect?

A. He made a statement that he was not there representing the company.

Q. What else did he say in that connection?

A. Then he went on to say everything had been, as far as he knew, everything had been rosy in the pole yard with everybody getting along well.

Q. Prior to that, in connection with this other observation when he said he was not there representing the company, didn't he say that the company did not care whether the men joined the union or not, they were perfectly free to join a union if they saw fit, or words to that effect?

A. I don't remember him saying that.

Q. Well, he mentioned that things had been going along well, or words to that effect, and then what did he say?

A. He said he believed if the men had any griev-

(Testimony of Clifford Damschen.)

ances to settle, they could come to him, and if he could not help them, he would go higher to do so.

[52]

Q. He did not say any man would lose his job if he joined the union, did he? A. He did not.

Q. He did not say that the employees ought not to join the union, did he?

A. Not in them words, no.

Q. Did he say that the Schaefer-Hitchcock Company would close its plant if the employees joined the union? A. No.

Q. Did he say that the company would curtail operations if the employees joined the union?

A. No.

Q. Did he say that the company would take any action in any way if the employees either joined or were active in the union? A. He did not.

Q. He did not make any threats at all, did he?

A. No.

Q. After he spoke did others speak or talk?

A. Yes.

Q. You would not call anything that anybody said there a speech, would you?

A. I don't think so.

Q. It was just an ordinary informal conversation, speaking from where they sat? [53]

A. Yes.

Q. Now, after you had discussed the matter of having a union representative there, there was no argument about it, was there?

(Testimony of Clifford Damschen.)

A. No, I believe not.

Q. And there was no ill feeling on the part of anyone expressed, was there?

A. Except what Pat Conlee said, that that would not be a two-sided meeting, that they had answers for each question you can ask them, and that they can paint a beautiful picture, but he had never seen one developed.

Q. Well, he was not mad when he said that, was he? A. I don't think so.

Q. Well, did anyone else talk after he had finished?

A. Several gave short sketches of their opinion of unions, all not in favor of the union.

Q. Everything that was said was not in favor of the union, was it? A. That is right.

Q. Well, after they had finished expressing their opinions did the meeting break up or turn into a social gathering?

A. Turned into more or less of a social gathering.

Q. And it lasted for sometime afterward as a sort of a social gathering, after which refreshments were served? A. That is right. [54]

Q. By the way, Mr. Damschen, Mr. Pat Conlee left the meeting shortly after?

A. As soon as it broke up, he left.

Q. That is as soon as the conversation about the union broke up? A. Yes.

Q. But the meeting itself had not broken up?

(Testimony of Clifford Damschen.)

A. The meeting had broken up, yes. The meeting had come to a close, as I remember.

Q. But the boys stayed there for sometime?

A. Yes, and Pat Conlee left.

Q. Now, Mr. Damschen, after that meeting on February 15 did you take any action or do anything in February or March in the way of trying to organize a union at the plant?

A. Only to talk to the fellows.

Q. When did you talk to them?

A. Practically every day, whenever time permitted.

Q. You mean while you were working?

A. No, not while I was working.

Q. While you were in the plant? A. Yes.

Q. That is, you would talk to different ones?

A. Yes.

Q. How many different ones did you talk to?

A. It would be hard to say. I sort of had my men picked [55] out as to who would be interested, and I tried to encourage those.

Q. About how many of them were there who showed some interest? A. Ten or fifteen.

Q. Including those that you named before that you talked to and tried to get to attend meetings?

A. Yes.

Q. Did you go ahead with your proposed meeting on the Wednesday following the 15th?

A. We did.

Q. Did you hold a meeting? A. No.

(Testimony of Clifford Damschen.)

Q. How did you go ahead with the meeting then?

A. They appeared, but there was no one showed up for the meeting. The hall was rented, and the organizer and a couple of fellows from the Newport local came over, but no one from the yard except myself showed up.

Q. Not a single employee showed up?

A. No.

Q. Had they all been invited?

A. I think so.

Q. Then there was not any other attempt to hold a meeting, was there? A. No. [56]

Q. And from that time on until you were laid off you did not take any further action, did you?

A. Not towards holding meetings. I went on talking union.

Q. But you could not interest any of the men, could you?

A. Yes, they were more or less interested. We did not have any date set for the organizer to return.

Q. On March 19,—you say that was the regular payday for the preceding month or half month. Which was it?

A. Half month. I don't know whether you would call it the regular payday. The payday is the 15th, but the time has to go to Sandpoint and back. It is not always the 19th, but it happened to be in this case.

(Testimony of Clifford Damschen.)

Q. Anyhow, the pay period was the first half of the month? A. Yes.

Q. And you received your check for the first half of March and then another check for the four days of the second half? A. Three days.

Q. Three days. And at that time Mr. Conlee told you that,—just exactly what did he tell you?

A. He handed me two checks and he said, "That will be all for you, Clif." And I walked out and turned around and thought it over and walked back in and I asked him, I said, "Do you mean that you don't want me to come back tomorrow?" And he said, "That is right. We are cutting [57] the forces and won't be needing you any more."

Q. Is that all? A. That is all.

Q. And you left? A. Yes.

Q. Now, you did not go back to see Mr. Conlee prior to the time you saw Mr. Schaefer in Sandpoint? A. No.

Q. In fact, you never went back to see Mr. Conlee? A. I never did.

Q. Now, in connection with this conversation with Mr. Schaefer and Mr. Hitchcock at the office of the company at Sandpoint, I understand from your testimony that besides them and yourself, Mr. Paddock and Mr. Butler were present?

A. Yes.

Q. Mr. Butler was president of the local union?

A. That is right.

(Testimony of Clifford Damschen.)

Q. Mr. Paddock did most of the talking at that conference, did he not? A. Yes.

Q. And I will ask you if it is not a fact that the remark made by Mr. Schaefer concerning you being rough with the tractor was to this effect, that he knew you were rough with the tractor and that might have been the reason you were laid off?

A. No. [58]

Q. Was it that in substance?

A. No, it was exactly the way I stated it before.

Q. Now, I will ask you to state it again.

A. Mr. Paddock asked him why they let me go, and Mr. Schaefer said, "He was rough with the machinery. I caught him jerking the tractor, and I told Pat to can him." He said, "A few days ago I seen a man jerking a team, and I told Pat to can him."

Q. You are positive those are the exact words, are you? A. I am quite satisfied of that.

Q. And that evening when you went to his home in Priest River, when he came to the door you simply asked him how about it, didn't you?

A. I think so.

Q. And he told you he could not do anything about it?

A. Well, that is true. There was more said than that.

Q. Well, he said that anyhow? A. Yes.

Q. He did mention that he had seen Mr. Conlee and discussed the matter with him?

(Testimony of Clifford Damschen.)

A. Yes.

Mr. Potts: That is all.

Redirect Examination

Q. (By Mr. Brooks) Mr. Damschen, Mr. Potts asked you about seniority at the pole yard here and whether or not there was [59] any seniority list and so on. I will ask you if sometime last year the employees at the pole yard were granted a vacation with pay? A. That is right.

Q. Was every employee working there given a vacation with pay? A. No.

Q. Was some system followed, if you know?

A. I don't know, but I understood that those who received vacations with pay were men who had been there two years or more.

Q. You do know some persons who had been there a shorter time than two years who did not get a vacation, do you not? A. Yes.

Q. Incidentally, do you know whether or not this Clyde Wear who was one of the tractor drivers at the time of your dismissal was given a vacation?

A. I think not.

Trial Examiner McNally: Am I correct in the understanding that the vacation was granted prior to January 1, 1941?

Mr. Brooks: I think that is right.

Q. (By Mr. Brooks) Is that true?

A. Yes, that was in 1940.

Q. In 1940? A. Yes.

(Testimony of Clifford Damschen.)

Mr. Brooks: That was my understanding.

Q. (By Mr. Brooks) Mr. Potts also asked you about this [60] gentleman Fay Dempsey who was driving a tractor and about his being favored because of his physical condition. Were there occasions prior to March 19, 1941 that Mr. Dempsey was taken off the tractor and you were kept on?

A. Yes.

Q. Do you know whether or not a second shift was added at the pole yard after you were dismissed on the 19th of March?

A. Yes, I understand there was.

Q. Do you know whether there were additional men hired for the tractor job?

A. Yes, there were.

Q. Can you name any of them?

A. Yes, there was Cleo Thomas, and Ed Delavout.

Mr. Conlee: D-e-l-a-v-o-u-t (spells it).

A. (Resuming) There were different ones off and on, I believe. I would not be sure just in what order they worked.

Q. Was there a man named Roy Dempsey hired on the tractor job after your dismissal?

A. Yes, and also I believe Sam Delavout, and also Orville Gillespie drove tractor a while but in the order they worked, I don't know.

Q. In the past when you were laid off because operations were curtailed were you called back to work when the work [61] was available?

(Testimony of Clifford Damschen.)

A. Yes.

Q. Is that true on every occasion when you were laid off, that you were notified when to come back?

A. If you didn't appear. There was times that some of us would appear if we thought there might be something doing.

Q. Were you ever called back to work after the 19th when this second shift was added?

A. No.

Q. Or at any other time since the 19th?

A. No.

Q. With reference to your layoffs in 1939 and 1940, is it true that on those occasions when you were laid off from work entirely that there was nothing remaining except a skeleton force, clean up men and work like that? A. That is right.

Q. On those occasions when there were layoffs, what occasioned them? A lack of poles coming in from the woods or matters of that kind?

A. That or lack of orders.

Q. You have told us that at this February 15 meeting several others expressed themselves against the union. Did any person present at the meeting on February 15, 1941 express himself in favor of the union besides you? A. No. [62]

Mr. Brooks: I think that is all.

Recross Examination

Q. (By Mr. Potts) When was this second shift put on after March 19, 1941?

(Testimony of Clifford Damschen.)

A. I believe it was the first of May.

Q. Where were you at that time?

A. I was at home.

Q. Hadn't you at that time got another job?

A. No, sir.

Q. How is that? A. I had not.

Q. Were you down here when the shift was put on? A. I was in Priest River.

Q. Where did you learn of it?

A. All my friends work there. I see them every day.

Q. Now, you know how that plant has been running during the last several years during your employment there, don't you?

A. I think so, more or less.

Q. You know the customs that were followed in the employment of men from time to time, what they actually did? A. Yes.

Q. Isn't it a fact that frequently or at least many times during your years of employment men who were waiting down there in the morning for work would be hired because they were there ready to go to work, seeking work, without [63] notifying any former employees that jobs were open?

A. Oh, we were always notified. Many new heads that had been very recently hired,—they hired men that were there without notifying them if they were really new heads; but the old heads were always notified.

Q. Whom do you mean by "old heads"?

(Testimony of Clifford Damschen.)

A. I mean men who had been there four or five years or more.

Q. Don't you know that upon more than one occasion the plant has closed in the evening because of lack of poles or the pole situation, and they would not know whether they were going to require a certain sized crew the following morning?

A. Yes.

Q. And then the poles would come in and the situation changed and men would be hired to work and they would be put on right then, men who were seeking jobs who had not formerly worked there?

A. Not ahead of men that were as old as I was.

Q. Aside from men that were as old as you were, don't you know of such occurrences happening often?

A. With men that were fairly new hands, yes.

Q. That is, you mean they would put these new employees on without waiting to notify the men who were fairly new hands?

A. Yes. [64]

Mr. Potts: That is all.

Mr. Brooks: I have one other question.

Redirect Examination

Q. (By Mr. Brooks) Do you know whether or not, Mr. Damschen, any other employee was dismissed from the pole yard at Priest River or laid off on March 19, 1941, besides yourself?

A. As far as I know, there was none.

Mr. Brooks: That is all.

(Testimony of Clifford Damschen.)

Mr. Potts: That is all.

Examination

Q. (By Trial Examiner McNally) Mr. Damschen, with reference to these layoffs that affected you from time to time, say in 1939 and 1940, can you give us an idea how many times you were notified to come back to work?

A. It would be pretty hard to do. Many times we were laid off of an evening and notified again that same evening or the following morning or the following day. However, it didn't happen so often in the last two years because the work has been fairly steady.

Q. Well, during the last two years were you ever at the plant after being laid off and then hired? A. Yes.

Q. What I mean is that you went to the plant looking for work? [65] A. Yes.

Q. After you had been laid off? A. Yes.

Q. Now, about how many times did that occur in 1939 and 1940?

A. Very seldom. I really could not give you an estimate.

Q. Well, can you approximate for us the total number of times you were laid off in 1939 and 1940?

A. Well, that would be very hard to answer.

Q. You would not care to estimate it?

A. I would say,—I would estimate it at half a dozen times a year.

(Testimony of Clifford Damschen.)

Q. Can you estimate the number of times in each year that you were notified to come back to work after being laid off some six times?

A. Well, they had a system of blowing the whistle when they wanted men to come back to work, and we were notified that way as a rule, but there was a few times when I was notified personally.

Q. About how many times would you estimate that you were notified personally?

A. More often than I was not notified; about twice as much, I would say.

Q. The blowing of the whistle that you speak of,—just for the record, would you tell us what the population of [66] Priest River is?

A. Well, I don't really know.

Trial Examiner McNally: What is the fact?

Mr. Schaefer: About fourteen or fifteen hundred.

Q. (By Trial Examiner McNally) How would the whistle work? Was it blown at a certain time? How long was it blown or how was the notification given to the employees to come back to work by blowing the whistle?

A. It is really the only whistle of its kind in the vicinity, and any time we heard the pole yard whistle we recognized it; and whatever time of day it was, it meant to come to work.

Q. How long would you have to get down there to work after the whistle blew?

(Testimony of Clifford Damschen.)

A. No specified time; whenever you got there you went to work.

Q. From your actual observation can you tell us anything about men waiting at the gate there or at the pole yard who were hired? A. No.

Q. Did you ever see that done?

A. Well, yes, I have; not ahead of the old ones, though. Where they had laid off someone a few days previous who perhaps lived out of town and there were new men waiting to go to work and there wasn't much difference in their [67] seniority, the new men would be put back to work.

Q. On what do you base that statement?

A. I don't understand the question.

Q. Are you well acquainted enough with all the men who work there to have a pretty good idea of their seniority or how long they worked there?

A. Yes.

Q. And you could tell which of the men were new men or about how long they worked there and which were the old men? A. Yes.

Q. Can you tell us of your own knowledge of any instance where a man had worked off and on for the company for four or five years and then lost out after a layoff insofar as he was not recalled to work and a new man hired at the gate or the pole yard in preference to him? Do you understand the question?

A. Yes, I think I do. I recall one instance to that effect.

(Testimony of Clifford Damschen.)

Q. Was that temporary employment or permanent employment?

A. For the new man, you mean?

Q. Yes, did he permanently take the place of the old man or temporarily?

A. In this one instance he permanently took it.

Q. Now, can you give us for the record some idea of how steadily the employees work at the pole yard? [68]

A. It varies a great deal. At different times in the past two years it has been quite steady.

Q. Well, there are hourly paid employees, I take it? A. Yes.

Q. They might be laid off without getting in a full day? A. That is right.

Q. In other words, they are laid off as soon as there is no work to be done? A. Yes.

Q. Irrespective of how long the employees had worked on a certain day or during a certain week?

A. Yes.

Q. The layoff comes swiftly, does it?

A. Yes.

Q. And the recall to work is just about as swift?

A. Yes.

Trial Examiner McNally: Is there anything further?

Mr. Brooks: I have some further questions, Mr. Examiner.

Trial Examiner McNally: Very well.

(Testimony of Clifford Damschen.)

Redirect Examination

Q. (By Mr. Brooks) You stated in answer to questions by the Examiner that about six layoffs probably occurred during 1939 and 1940. Were those of varying duration? That is, it might be for a few days or a week? [69] A. Yes.

Q. You include in that every time you were laid off for any period of time, is that right?

A. Yes.

Q. With reference to blowing the whistle by the pole yard to notify the men to come back, is it not true that such policy was followed where the yard was down completely, and this was to notify the employees they were starting up operations again? A. Yes, that is right.

Q. The whistle, of course, would not be used if one or two or five employees had been laid off?

A. No.

Q. Do you live in Priest River? A. Yes.

Q. How far from the center of town?

A. A mile and a half.

Q. How long have you lived in Priest River and vicinity? A. About eight years.

Q. How long have you lived at the place you are now living? A. A year and a half.

Q. Are you buying or renting your place?

A. Buying.

Q. You mentioned that to your knowledge there was one [70] instance of a man who had worked

(Testimony of Clifford Damschen.)

for the company here for sometime being replaced by a new man. When did that occur?

A. I can't be very accurate on that. It happened about two years ago.

Q. Do you know whether or not he was replaced because he did not show up at the time that work was available?

A. In my opinion he was.

Mr. Potts: Oh, I object, unless he knows.

Mr. Brooks: I am just asking if he does know.

Trial Examiner McNally: Just tell us what you know.

Q. (By Mr. Brooks) Just tell us what you know about it. You said there was an instance.

A. The question again, please?

Q. Tell us what you know about this instance as to why it happened. If you don't know, just tell us so.

A. He was an old man. I figured he was just simply put out because of his age and the younger man took his place.

Q. You mean he was an old man in age?

A. Yes.

Q. About how old? A. Sixty-five.

Q. How old are you? A. Twenty-nine.

Mr. Brooks: That is all. [71]

Trial Examiner McNally: Anything further?

Mr. Potts: No.

Trial Examiner McNally: You may step down, Mr. Damschen.

(Witness excused.)

Trial Examiner McNally: Off the record.

(There was some discussion off the record.)

Trial Examiner McNally: We will adjourn until two o'clock.

(Whereupon at 12:00 Noon, hearing recessed until two o'clock p. m.) [72]

Afternoon Session—2:00 P. M.

(Pursuant to the taking of noon recess, the following proceedings were had:)

Trial Examiner McNally: Are you ready, gentlemen?

Mr. Brooks: Yes. Call Mr. Paddock.

CHARLES A. PADDOCK,

a witness called by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Brooks) State your name, please.

A. Charles A. Paddock.

Q. That is P-a-d-d-o-c-k? (Spelling)

A. That is right.

Q. What is your mailing address?

A. At the present time it is 737 East 34 Street, Spokane, Washington.

Q. And what is your occupation?

A. I am an International representative of the

(Testimony of Charles A. Paddock.)

United Brotherhood of Carpenters and Joiners of America.

Trial Examiner McNally: May I interrupt at this point?

Mr. Brooks: Yes.

Trial Examiner McNally: I notice in the charge that the name Schaefer is spelled with two f's.

Mr. Brooks: Is that an incorrect spelling of it?

Trial Examiner McNally: In the other pleadings that we [73] have it is spelled with one f.

Mr. Brooks: Which is the correct spelling?

Mr. Schaefer: S-c-h-a-e-f-e-r (spells it).

Mr. Brooks: One f?

Mr. Schaefer: One f.

Mr. Brooks: I move to amend the caption of the charge further to conform to the spelling given by Mr. Schaefer.

Trial Examiner McNally: Any objection?

Mr. Potts: No objection, of course, only I suggest that there should be included in that motion the correction of the spelling of the name Damschen, as it is misspelled in the charge.

Mr. Brooks: That is correct. I agree with counsel that that should be included in the motion. In the charge the name is spelled "er". The "r" should be "n".

Trial Examiner McNally: Any objection?

Mr. Potts: No.

Trial Examiner McNally: Both motions to

(Testimony of Charles A. Paddock.)

amend the charge are granted. Excuse me for interrupting.

Mr. Brooks: Certainly. I want to thank you for calling that to my attention.

Q. (By Mr. Brooks) Mr. Paddock, as representative of the Brotherhood of Carpenters and Joiners, what territory do you cover?

A. I have been covering the territory from the Canadian [74] line south down into Central Oregon in the States of Montana, Idaho, Eastern Washington and Eastern Oregon.

Q. This charge in this matter was filed, I notice, by you on behalf of Local 2614. Was that at the request of the officers of that local? A. Yes.

Q. Are you acquainted with Local 2614, called the union in the pleadings in this case?

A. I am.

Q. By what organization is that local chartered?

A. By the United Brotherhood of Carpenters and Joiners of America.

Q. And the Lumber and Sawmill Workers is a branch or division of the Brotherhood?

A. That is right.

Q. And the Brotherhood, I believe you stated when you stated your appearance, is affiliated with the American Federation of Labor? A. Yes.

Does Local 2614 have any defined jurisdiction as far as geography is concerned?

A. Not at the present, no. They have not had as yet.

(Testimony of Charles A. Paddock.)

Q. Directing your attention to the month of February, 1941, did it come to your attention in your official capacity that an organizer for the Brotherhood of Carpenters [75] had come into Priest River? A. Yes.

Q. Do you know whether or not prior to that time there had been any kind of an organizational campaign conducted by your organization among the employees of this respondent at Priest River?

A. I don't know. I don't think there had, though.

Q. There was none that you know of prior to that time? A. None that I know of.

Q. Directing your attention to the month of March and more particularly to a day or so after the 19th of March, did you receive any request from Local 2614 with reference to rendering them some kind of assistance? A. Yes, I did.

Q. What was that request?

A. I got a request for me to come up here to assist the organization in the matter of Damschen being discharged.

Q. Did you come to the vicinity of Newport and Priest River as a result of that request?

A. I did.

Q. Do you remember the day that you came?

A. I came on the 22nd of March, 1941.

Q. What did you do upon your arrival with respect to the discharge of Damschen?

A. Well, on my way from Spokane I stopped

(Testimony of Charles A. Paddock.)

and picked up [76] Clarence Butler, the president of the local, and drove to Priest River; and here we picked up Damschen; and then went down to the pole yard here in Priest River looking for Mr. Schaefer.

Q. At the pole yard did you have any conversation with anyone?

A. When we arrived at the pole yard we saw Mr. Conlee, Pat Conlee, the foreman, over in the yard directing some men. He was pointed out to me by Damschen from the car. Clarence Butler and I walked over where Pat Conlee was and told him we were looking for Mr. Schaefer and asked him where Mr. Schaefer was, and he told us that Mr. Schaefer was in Sandpoint.

Q. Did you, Mr. Paddock, identify yourself when you started your conversation with Mr. Conlee?

A. I am not sure that I did, I don't remember.

Q. Very well. State for us what conversation there was between you and Mr. Conlee?

A. I told Pat Conlee that we were looking for Mr. Schaefer to take up the matter of the discharge of Clifford Damschen. I told him that we felt that Damschen had been discharged on account of union activities and pointed out if that were so, it was a violation of the National Labor Relations Act. And I asked Pat Conlee why he had discharged Damschen, and he said they were reducing forces [77] and for that reason he discharged him, and

(Testimony of Charles A. Paddock.)

he said "We have a right to discharge men any time we want to." I said, "Yes, that is true, except you don't have a right to discharge a man on account of union activities." And I said, "In this case we feel that that was the reason for the discharge." He said,—or I said, "I think he was discharged because he joined the union. That is the way we feel." He said, "Has he joined the union?" He said, "I did not know that." I said, "Well, you must have known his attitude in regard to union organization because there was a meeting held here at which most of the employees were present and also the foremen were present, and for that reason you must have known the way Damschen felt about the union." And I don't remember whether he denied being at the meeting. I myself did not know Pat Conlee had been present at the meeting at this time, but I was informed that the foremen were there.

Q. You did not know what the name of the foreman was?

A. No, I did not know the foremen who were present.

Mr. Potts: That is, the name of the foremen who were present?

The Witness: No.

A. (Resuming) I asked Pat Conlee when he was going to put Damschen back on the job and he said, "We are not going to put him back on the job." And I said, "Why?" He said, [78] "That

(Testimony of Charles A. Paddock.)

is none of your damn business." And I said, "Well, we will make it some of our busniess if you are not going to give us some consideration. If you do not, then it is going to be necessary to take the matter up with the Labor Relations Board, and maybe they will have something to say about it, and maybe he will go back on the job." We had somewhat of an argument of the matter there. There were four or five men standing nearby, I think, who heard the argument, and that was about all of our talk at that time, I believe.

Q. When you left the pole yard, where did you go?

A. We went directly to Sandpoint and to the office of the Schaefer-Hitchcock Company.

Q. Did you have a conference with someone at the office of the Schaefer-Hitchcock Company in Sandpoint?

A. We did.

Q. State who was present at that conference?

A. Mr. Schaefer and Mr. Hitchcock, Mr. Damschen and Mr. Butler and myself.

Q. Did you and Mr. Schaefer do most of the talking at that time?

A. Yes, I think we did most of it.

Q. Will you tell us what was said in that conference and what happened there?

A. Well, as we went into the office Mr. Butler and Mr. [79] Damschen and myself, I introduced myself and Mr. Butler, and told Mr. Schaefer and Mr. Hitchcock that I represented the Carpenters

(Testimony of Charles A. Paddock.)

and Joiners International Union and that our organization had been attempting to organize his employees here at Priest River; and I related the fact that Clifford Damschen and one or two other employees had signed application cards upon the first visit of Ray Belden here, and that later an organizational meeting had bene held and that Butler understood the CIO had held one or two organizational meetings here; and I related to Mr. Schaefer and to Mr. Hitchcock that there had been a meeting held which was called by his foreman and attended by most of his employees, at which time the foreman had talked in opposition to labor organization by making various statements which I felt were discouraging the employees in joining a union, and at that meeting a vote was attempted to be taken to decide whether or not the employees would form an union, and that Clifford Damschen, who was a member of our union, had taken the floor and opposed the matter of a vote on the grounds that the men had not had an opportunity to hear the union's side of the argument, the discussion, and I stated that shortly after this occurrence Damschen was discharged from his job and to us it appeared like discrimination for union activities, and we asked for his reinstatement, asked that the company put him back on the [80] job. Mr. Schaefer denied any knowledge of the meetings that were held in Priest River. I asked him,—well, he told me this in regard to the meetings.

(Testimony of Charles A. Paddock.)

I asked him if he did not know of these meetings that had taken place in Priest River, and he said he had heard something about a CIO organizational meeting, and he had heard something about a beer party being held when his employees were present, but he denied any knowledge of Damschen having joined the union, and said if his foremen made any such statements as we claimed they had made, they were wrong in doing it; and he denied any knowledge further of any, and said that it would not have been right for them to do that, but he said the company, as far as they were concerned, were not a party to it. I then pointed out it was my belief under the National Labor Relations Act the company is responsible for the actions of their foremen in regard to discouragement of labor organizations or any acts in regard to the rights of employees to form a union.

Q. When you requested Mr. Schaefer to put Mr. Damschen back to work what, if any, reply did he make?

A. "Well," he said, "at any rate we would not consider putting him back on the tractor." And I said, "Why?" "Well," he said, "he is too rough in handling the tractor. We could not consider the matter of putting him back on the tractor." I then asked if there wasn't some other [81] work he could put Damschen at, and he said, "Well, I don't know. I will have to take it up with Pat Conlee." And we said, "Will you do that then?" And, "How soon can you do it?" And he said, "I will take the

(Testimony of Charles A. Paddock.)

matter up with Pat Conlee this afternoon, and I will let you know this evening what I may be able to do.”

Q. Did any party there, if you now recall, say anything about wages?

A. Yes, Mr. Schaefer said that Damschen had been dissatisfied with the wages, and I believe his argument was that that justified him in discharging him. I said to Mr. Schaefer, “That is true. Damschen has been dissatisfied with the wages, and for that reason he was attempting to organize a union so that through the union they might come up with their committee and bargain with you on the matter of wages and hours and other conditions of employment.” And I told him that that was what the National Labor Relations Act protected them in doing. He also stated that the company had just now raised their minimum wages from a 60 cent to a 65 cent scale.

Q. Did he state whether or not that was being put into effect, or do you recall?

A. I don't recall just what he said, only that they had only recently raised the wages from 60 to a 65 cent minimum wage. Mr. Schaefer also in our discussion stated that they [82] had recently purchased a pole yard at Bovill, which yard was organized previous to the purchase by the Schaefer-Hitchcock Company, and Mr. Schaefer stated that those employees expressed themselves to him that

(Testimony of Charles A. Paddock.)

they were glad now that they were going to be able to work there without having any union.

Q. Was it the understanding at the close of the meeting that Mr. Damschen would go to Mr. Schaefer's house that evening and get the answer as to whether he would be put back or not?

A. The understanding, as I recall it, was to the effect that Damschen was to contact Mr. Schaefer that evening. I don't believe it was said where, but he was to contact him that evening at Priest River and find out what Mr. Schaefer was going to do about the matter in regard to reinstating him.

Q. Did you receive word from Mr. Damschen that evening? A. I did.

Q. How did you receive this word?

A. Mr. Damschen called me by telephone at the Desert Hotel in Coeur d'Alene, where I was stopping.

Q. And what was his report to you?

A. He reported to me that Mr. Schaefer said he could not do anything about the matter of reinstatement at this time, that he might be able to do something later, or words to [83] that effect.

Q. That was on the 22nd of March, I believe you stated. Was it the result of your effort and this call from Mr. Damschen that you filed the charge on the 24th of March?

A. Yes, it was understood between Butler, the president of the local, and Damschen and myself—

(Testimony of Charles A. Paddock.)

Mr. Potts: I think I will object to that. That is clear outside the realm——

Trial Examiner McNally: What is the question? (Question read.)

Mr. Potts: I have no objection to the question, but I object to the answer, which goes into the conversation between Butler and Damschen.

Trial Examiner McNally: You may answer the question.

(Question read.)

Mr. Brooks: I will reframe the question.

Trial Examiner McNally: The question and answer may both go out.

Q. (By Mr. Brooks) Was it the result of your efforts on behalf of Mr. Damschen and this telephone call that you received from Mr. Damschen that you filed this charge? A. Yes.

Mr. Brooks: You may take the witness.

Trial Examiner McNally: Was the talk with Mr. Schaefer the same day that you talked with Mr. Conlee? [84]

The Witness: Yes, the same day.

Q. (By Mr. Brooks) In other words, you went from the pole yard in Priest River direct to Sandpoint, where you contacted Mr. Schaefer?

A. Yes.

Trial Examiner McNally: Will you tell us for the record who is eligible to apply to Local 2614?

The Witness: Anyone who is employed in the woodworking industry in the area around Newport,

(Testimony of Charles A. Paddock.)

whether it be men who work in a sawmill or logging camp or pole yard or other woodwork.

Trial Examiner McNally: What do you mean by "area around Newport"? Can you define it a little more definitely?

The Witness: Mr. Examiner, there is no definite line as to how far out the local might reach for membership. It did and does yet include the area of Priest River. It includes the area at Cascade, another town 18 miles away from Newport. I would say just roughly——

Trial Examiner McNally: At all events, the Priest River employees would be eligible to join.

The Witness: That is right.

Trial Examiner McNally: Very well.

Cross Examination

Q. (By Mr. Potts) Mr. Paddock, you are not an officer or [85] member of Lumber and Sawmill Workers' Union Local 2614? A. No.

Q. The complaining union? A. No.

Q. And were not in March, 1941?

A. No.

Q. Your first contact with this matter in dispute was on March 22, 1941, when you made the trip to Priest River?

A. No, that was not my first contact with the case.

Q. It was your first contact with the situation in Priest River on that date? That is, you had not

(Testimony of Charles A. Paddock.)

been to Priest River before in connection with this matter? A. I believe not.

Q. So all the information you had as to the facts was information which had been given to you by other parties? A. That is right.

Q. And all the statements which you made to Mr. Schaefer at the office of the Schaefer-Hitchcock Company in Sandpoint on March 22, 1941, when you had your conference there, were statements based on what other people had told you?

A. That is right.

Q. You knew nothing about the accuracy of those statements, of your own knowledge?

A. That is right.

Q. So when you told Mr. Schaefer that this meeting had been [86] called by his foreman, you did not know whether or not that statement was accurate or not, did you, so far as any knowledge you had was concerned?

A. That is right.

Q. Now, as I understood your testimony regarding the conversation at Sandpoint, you say Mr. Schaefer said he had not heard anything about any union activities down here at the plant except that he had heard something about a CIO matter and a beer party?

A. No, I did not say that.

Q. Now, I want to get that a little more certain.

A. That was not my statement, not the way you asked the question.

(Testimony of Charles A. Paddock.)

Q. All I want is to get it accurately.

A. He said he had heard of a CIO meeting here in Priest River and he had heard of a beer party at which his employees were present. He disclaimed any other knowledge of organizational meetings of the union.

Q. And he stated that he would not consider putting Mr. Damschen back running the tractor in any event, didn't he? A. That is right.

Q. And he gave as his reason for that that he was rough with the tractor? A. That is right.

Mr. Potts: That is all. [87]

Trial Examiner McNally: Anything further?

Mr. Potts: Just a minute.

Trial Examiner McNally: Any further questions?

Mr. Potts: One question I overlooked, with your permission, Mr. Examiner.

Trial Examiner McNally: Proceed.

Q. (By Mr. Potts) Isn't it a fact that you did not disclose your union position or affiliation to Mr. Conlee when you went to the yard here, at all, at any time while you were there?

A. I am not sure about that. I would not say yes or no. I really don't know.

Q. Can't you remember that?

A. I really don't remember.

Mr. Potts: That is all.

Mr. Brooks: That is all.

(Witness excused)

JOHN WEBB,

a witness called by and on behalf of the Board,
being first duly sworn, was examined and testified
as follows:

Direct Examination

Q. (By Mr. Brooks) State your name, Mr. Webb? A. John Webb.

Q. What is your mailing address?

A. Priest River. [88]

Q. Are you at the present time employed by the respondent Schaefer-Hitchcock Company?

A. No, sir.

Q. Have you been in the past?

A. Yes, sir.

Q. When did you leave the employ of the respondent?

A. I believe it was May 12 of this year.

Q. Voluntarily, of course? A. Yes, sir.

Q. Are you presently employed?

A. Yes, sir.

Q. By what company?

A. By the B. J. Carney Company.

Q. Were you working for the Schaefer-Hitchcock Company at its pole yard in Priest River in February, of 1941? A. I was.

Q. How long have you worked for the respondent?

A. I think it was either in 1928 or '30 I began working for the Schaefer-Hitchcock Company. I would not be sure definitely, but I believe it was 1930, though.

(Testimony of John Webb.)

Q. You started working when this company started operating in this yard here, didn't you?

A. No, I worked for M. L. Bruce Company previously, and Mr. Bruce was killed in a car accident, and the Schaefer-Hitchcock Company bought his interest, and they asked me if [89] I would continue to work for them.

Q. But you think it was 1930?

A. I think it was 1930.

Q. Directing your attention,—first, I will ask you do you know Mr. Con Wear?

A. I do.

Q. Mr. Con Wear was in February, 1941, employed by the respondent here at Priest River, was he not?

A. He was.

Q. What was his job with the company at the pole yard?

A. I would have called him a straw boss.

Q. What did he do from your observations?

A. Well, they have a hoist down there, and he run that once in a while, but most of the time he was just around the yard.

Q. Did you hear him give orders?

A. I did.

Q. Did he ever give you orders?

A. He did.

Q. And in your experience with the company, has Mr. Conlee, the foreman, been off duty for a day or more at different times?

(Testimony of John Webb.)

A. Yes, I can remember of a few times he was away from there, I think two or three days, and sometimes a day or two. [90]

Q. Do you know on those occasions who, if anyone, replaced him as being in charge of the pole yard? A. Con Wear did.

Q. Directing your attention to February, 1941, do you recall having a conversation with Mr. Wear at which time the question of unions was brought up? A. You said previous to that?

Q. During the month of February.

A. During the month of February?

Q. Yes, of 1941. A. Yes.

Q. Can you tell us the date any more accurately than just about the month of February?

A. Yes, I think I can. I believe it was about the fourth day before that meeting was held at the Peterson Hotel.

Q. That has been placed as the 15th of February, and if it was four days previous, it would be the 11th, is that right?

A. That would be correct. That would be very near it.

Q. Where did this conversation occur?

A. In what we call the upper yard of the Schaefer-Hitchcock Company yard. It is this side of the railroad tracks.

Q. During working hours?

A. During working hours.

(Testimony of John Webb.)

Q. Was there anyone else present at the conversation right near you? [91]

A. Well, his brother-in-law Morley Morrow was about 40 feet away, I would say. He was at one end of the pole and his brother-in-law was at the other end, and Con Wear was standing right close to me.

Q. This other person is Morrow?

A. Morrow. (spells it.)

Q. Will you tell us what was said in that conversation?

Mr. Potts: Objected to for the reason that it does not appear that this witness was in any sense a representative,—or rather, it does not appear the conversation which the witness is asked to testify about was with anyone who was an officer or representative of the respondent company.

Trial Examiner McNally: Objection overruled. The witness may answer.

A. The same day that this conversation took place,——

Trial Examiner McNally: What is the question?

(Question read.)

Q. (By Mr. Brooks) Tell us what the conversation was, if any, and if it needs explanation, you may then explain it.

A. All right. He asked me when he came up if I knew that CIO organizer that came to the boiler room that day, and I told him that I did not. "Well," he said, "he was from Sandpoint." "Yes." I said, "I heard him make that statement, but I

(Testimony of John Webb.)

don't know him." And he asked then what I thought about the union, and I told him I figured that it [92] had come to a point where a union was necessary. And he asked me why I thought that, and I said I understood the way a lot of these matters were handled, that with material shipped by non-union labor, union labor could very well refuse to accept it or handle it, and it would be very possible that in Mr. Schaefer's business some poles would be shipped some place sometime and that condition would come up. And he told me then that until that condition did come up it was better to let that alone, and if it did come up, then Mr. Schaefer could advise us to join a union, and what union.

Q. Was that all, as far as the substance of that conversation was concerned, with reference to unions? A. That was all.

Q. Were you a few days after that invited to attend a meeting of the employees of the respondent on the 15th day of February?

A. I was.

Q. Who invited you? A. Con Wear.

Q. Where were you when you got this invitation?

A. I was at the door of the boiler room. I had just come out of there headed for home.

Q. State what Mr. Wear said and what you said?

A. Well, he told me they were going to have a meeting at [93] the Peterson Hotel to decide

(Testimony of John Webb.)

whether or not they would have a union, and he would like to have me attend, and I told him I had quite a bit of work I was doing around home, and I felt that there wouldn't be anything said there that would be of sufficient interest for me to come.

Q. Was that the end of that conversation?

A. That was the end of that conversation.

Q. Did you go to the meeting? A. I did.

Q. Approximately how many employees of the respondent were present at that meeting?

A. Well, I would say somewhere about twenty.

Q. Will you state for us what transpired and what was said in that meeting of February 15 at the Peterson Hotel?

A. Well, as I remember it, we sat around in there for quite a little while, and finally one party made the remark that we should dig into the matter of the union if we were going to. And I believe then that Con Wear made the statement that Mr. Conlee was present and he had had quite a bit of experience with unions back east, and he could probably tell us something about it. And shortly after that Clifford Damschen made the remark he figured it would be a one-sided affair if there wasn't some sort of representative there from the union who knew a lot about it, and Mr. Conlee made the remark that no matter what was [94] asked they always knew the answers, and he said they could paint a very rosy picture, but it hardly ever developed. And he told about back East. The boys

(Testimony of John Webb.)

had had a union there and they had been out on strike quite a bit of the time, and he felt they had really lost more by the union than they had made.

Q. Did Mr. Conlee state where back East?

A. I don't think he did. I think he just said back East.

Q. Do you recall now anything else that Mr. Conlee said at that meeting?

A. I believe that is all that I can recall.

Q. Do you recall George Cronkright saying anything? A. Yes.

Q. Do you recall what he said?

A. He mentioned the fact that at Bovill they had had a union and the Schaefer-Hitchcock Company purchased that yard at Bovill about the first of the year and that the boys had gone back to work for the Schaefer-Hitchcock Company without any union and seemed glad to do it.

Q. And seemed to be glad to do it?

A. I believe that was the way it was stated.

Q. Do you recall any proposal for a vote to be taken at that meeting? A. Yes.

Q. What was said in that regard? [95]

A. Clifford Damschen objected to that. He made the remark he felt it was not representative of both sides enough to give the parties a clear picture of what it was actually, and he figured a vote was out of order.

Q. Did anyone present other than Damschen say anything in favor of unions?

(Testimony of John Webb.)

A. Not that I know of or recall.

Q. Do you recall the date that Clifford Damschen was dismissed from the employ of the respondent company?

A. Yes, I am quite sure I do. I think it was March 19.

Q. You recall hearing about it that day, do you?

A. I didn't really know about it until the next morning.

Q. Do you know whether or not anyone else was laid off, discharged or dismissed from the employ of the respondent company at the Priest River plant on that date, March 19, that Damschen was discharged?

A. No, I don't know of anyone else being laid off near that date.

Mr. Brooks: You may take the witness.

Cross Examination

Q. (By Mr. Potts) You told Con Wear during the conversation on February 11 that you were in favor of the union, didn't you?

A. I did not say I was in favor of the union. I told him that I thought it had come to the point where a union would [96] be necessary. Of course, in a roundabout way, that is saying it.

Q. In other words, you were arguing in favor of the union?

Mr. Brooks: I object to that as calling for a conclusion of the witness. He may state what was said,

(Testimony of John Webb.)

but it is purely a conclusion as to whether it was an argument and whether he was arguing in favor of the union.

Trial Examiner McNally: What was the question?

(Question read.)

Trial Examiner McNally: He may answer.

The Witness: I think I did answer that, didn't I?

Trial Examiner McNally: Have you told us just exactly what was said?

The Witness: Well, he asked me if I had argued for the union, and I told him that I had said that I thought it had come to a point where a union was necessary. Does that answer the question?

Trial Examiner McNally: Well, is that all you said in connection with the union at that conversation?

A. No, I stated before what I had said. I did not know it would be necessary to repeat it again. But I——

Q. (By Mr. Potts) It will be necessary to answer the questions as long as the Examiner holds they are proper.

A. All right. To complete it then, after I had said I had thought it had come to the point where I thought a union was necessary, that it was possible for material [97] to be shipped and union labor at the other end refuse to handle it because it was loaded by non-union labor to begin with and

(Testimony of John Webb.)

that I thought on that ground Mr. Schaefer might possibly get caught that way, and then Con said that in a case like that it would be better to wait until it did come up, and if it did, that Mr. Schaefer then would tell us whether or not we should join a union to take care of that and what union.

Q. And what did you reply to that, if anything?

A. There was no more replies or questions.

Q. Now, that was the whole conversation as you narrated it, was it? A. Yes, sir.

Q. You remember it distinctly?

A. I think I do, yes, sir.

Q. You did not have any other argument in favor of the union that you have not mentioned, other than the benefit to the employer?

A. Well, that could be taken either way, absolutely, yes, sir.

Q. You did not mention anything else in the way of argument?

A. I did not mention anything else.

Q. Now, you attended this meeting on the 15th, four days thereafter, in the same frame of mind, didn't you? You [98] had not changed your mind any, had you?

A. I don't believe I had, no.

Q. So when you attended that meeting during the time you were present there, you were in favor of the union, weren't you?

Mr. Brooks: I think that is immaterial.

(Testimony of John Webb.)

Trial Examiner McNally: He may answer.

A. I wanted to find out. I did not know much about unions. I did not pretend to know then, and I don't pretend to know much yet, but I wanted to find out.

Q. (By Mr. Potts) Did you find out anything?

A. I did not find out anything there.

Q. You did not hear a thing to influence you one way or the other, did you?

A. At that meeting?

Q. At that meeting.

A. Well, I can't say that I was too much influenced one way or the other by what I heard there.

Q. Were you influenced at all by anything you heard there? A. Well, I will tell you——

Q. Just answer the question, please.

A. I was rather disgusted, rather than influenced.

Q. Then you were not influenced. You were not influenced by anything that you heard there?

A. If so, not very much. [99]

Q. You did not express yourself at that meeting at all? A. No, I did not.

Q. Did you engage in any conversation?

A. Well, part of the time there was just visiting going on there other than at the time the union itself was under discussion.

Q. All the time it was just a conversation, wasn't it? Nobody got up and made a speech, did he?

(Testimony of John Webb.)

A. No, not actually a speech,—I wouldn't call it.

Q. They just talked from where they sat in the chair or on the floor, didn't they?

A. Well, I believe there was two times that they stood up to address the crowd.

Q. Who stood up?

A. Mr. Con Wear stood up at the time he introduced Mr. Conlee, and George Cronkright stood up when he was talking about the union at Bovill.

Q. Mr. Conlee did not stand up, did he?

A. No, he sat on the floor.

Q. And what he said he just said in an ordinary conversational tone of voice?

A. Yes, I would say that.

Q. And did others engage in the discussion while Mr. Conlee was talking?

A. Well, Clifford did,—Clifford Damschen.

[100]

Q. And there was no argument, was there?

A. Well, I don't know whether you would call it an argument or not. I don't suppose you would call it arguing.

Q. Mr. Damschen suggested that since the union did not have a representative there, they should not have a vote? Isn't that where he came into the picture?

A. Yes, he suggested that.

Q. Had anybody suggested that they take a vote?

A. Yes.

Q. Who was it?

(Testimony of John Webb.)

A. I don't know who made the suggestion.

Q. It was not Pat Conlee, was it?

A. You mean Pat Conlee made the suggestion that we take a vote?

Q. He didn't make the suggestion?

A. No.

Q. Con Wear didn't make it, did he?

A. I don't remember for sure who it was. Somebody made the suggestion. It seems to me Ed Gillespie said that, but it might have been Con Wear. I don't know for sure.

Q. But whoever it was who made the suggestion, upon Mr. Damschen objecting to it, the idea was abandoned, wasn't it, right then and there? No vote was taken.

A. No vote was taken.

Q. And no further discussion. That just ended it?

A. Yes, I think that was about the end of it.

[101]

Q. What is your recollection as to how this meeting progressed as to who started the discussion about the union?

A. Well, Ed Gillespie, I believe, was the one who mentioned the fact that we should get busy on talking about the union if we were going to do anything about it.

Q. And following that suggestion did different ones express their opinion?

A. Well, I don't think so. I think it was practically as I told you before except after there was no vote I think there was two or three who made

(Testimony of John Webb.)

the remark that we could get along all right without a union, and I guess we can yet.

Q. Now, at that meeting I believe you said that you thought there were about 20 there?

A. Yes, somewhere about 20.

Q. And do you recall how many employees there were in the plant on that day?

A. Well, I imagine,—I never actually counted them there, but I would say probably 25 or 26.

Q. To the best of your knowledge all the employees were present at that meeting except four or five,—something like that?

A. Yes, that would be about right.

Mr. Potts: That is all.

Redirect Examination [102]

Q. (By Mr. Brooks) Mr. Webb, you have appeared here today and testified pursuant to a subpoena, have you? A. I have.

Mr. Brooks: That is all.

Examination

Q. (By Trial Examiner McNally) Mr. Webb, how much time elapsed between the time you went into the Peterson Hotel and when the crowd left?

A. Well, I don't believe I could tell you definitely. I don't believe I had my watch with me. I left my watch in my work clothes, and I never looked to see what time it was, but I would say we were there probably five hours. There was only part

(Testimony of John Webb.)

of that period—I think maybe somewhere between half and three-quarters of an hour—that the conversation was about unions, and then after that it was a party.

Q. Whose party was it?

A. I don't know.

Q. What did you have to do with it?

A. Well, I helped to drink the beer.

Q. Did you pay for your share?

A. I never paid anything, no, sir.

Q. Who did pay, do you know?

A. I don't know.

Q. Did you see anybody pay for beer that night?

[103]

A. I heard a couple of remarks made that would lead me to believe who paid for a couple of cases, but I did not see who paid for it, so I could not say that that is right.

Q. As far as you could see, the beer was not paid for that evening?

A. Well, it was paid for out at the bar. We were in a room at the back end, and the beer was carried in there in cases.

Q. You don't know who did pay for it, but you did not pay for what you had?

A. That is correct.

Trial Examiner McNally: Anything further?

(No response.)

(Witness excused.)

Mr. Brooks: That concludes the evidence that I have to offer, Mr. Examiner, and with the usual motion that is made in these proceedings to amend the complaint to conform to the proof, I rest. I will state, of course, that this has to do with formal matters and is not to add any substance to the complaint.

Trial Examiner McNally: Any objection to the motion?

Mr. Potts: Well, I object to a motion the purport of which is not stated. If there are any motions to be made, it seems to me they should be stated.

Mr. Brooks: My thought, Mr. Examiner, is in event there are some typographical, clerical, or formal errors [104] such as dates, spelling and so so forth as to which the proof varies from the complaint, this motion is to take care of that. As I stated, it is not to add any additional substance to the complaint.

Trial Examiner McNally: With that amplification, Mr. Potts, what do you say?

Mr. Potts: If it is restricted to formal corrections only, I have no objection to it.

Mr. Brooks: It is so restricted.

Trial Examiner McNally: The motion is granted.

Mr. Potts: Call Mr. Cronkright.

GEORGE WILLARD CROCKRIGHT,

a witness called by and on behalf of the Respondent Schaefer-Hitchcock Company, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Potts) State your full name.

A. George Willard Crockright.

Trial Examiner McNally: Will you spell your last name?

The Witness: C-r-o-n-k-r-i-g-h-t (spells it).

Q. (By Mr. Potts) Where do you reside?

A. Priest River.

Q. Are you employed by the Schaefer-Hitchcock Company at its pole plant in Priest River?

[105]

A. Yes, sir.

Q. How long have you been employed there?

A. 17 years.

Q. During what part of that time has your employment been with this company?

A. The whole time.

Mr. Brooks: I will stipulate he is in error, Mr. Potts, to make it simpler.

Q. (By Mr. Potts) It is my impression, Mr. Cronkright, that the Schaefer-Hitchcock Company did not have this pole plant prior to 1930?

A. That is right.

Q. So let's get it accurately.

A. All right.

(Testimony of George Willard Cronkright.)

Q. Prior to that time when they acquired the plant, you were working for whom?

A. For Mr. Schaefer and Mr. Hitchcock at Kaniksu Cedar Company.

Q. So your statement you have been working for this company 17 years is correct, is it?

A. That is right; I believe it is.

Q. Now, during the months of February and March of the present year what work were you doing?

A. Inspecting.

Q. Inspecting what?

A. Poles. [106]

Q. And where?

A. In the Priest River yard. Sometimes I was in the Bovill yard, and sometimes in Potlatch Forests and part of the time at Soldier Creek.

Q. Well, during these two months where did you spend most of the time, February and March of this year?

A. Soldier Creek.

Q. How much of your time was spent in the Priest River yard?

A. Very little.

Q. You were here about the middle of February, were you,—that is, sometime about the 15th of February?

A. Yes, sir.

Q. Were you here any considerable length of time before that date?

A. Not steady,—not to say I was in the yard for 15 or 20 days at a stretch because I was not.

Q. Do you recall a meeting of some kind which was held in Priest River on February 15, 1941 by

(Testimony of George Willard Cronkright.)

the employees of the Schaefer-Hitchcock pole plant? A. Yes, sir.

Q. Did you have anything to do with arranging that meeting? A. I did.

Q. Just what did you do?

A. Well, nothing more than to try and get the boys [107] together and talk the proposition over.

Q. Did you discuss it with anyone else and take some part in arranging the meeting or getting them together?

A. Well, I and Con Wear got them together.

Q. Do you know of anybody else participating in the preliminaries?

A. Ed Gillespie, I believe.

Q. How did you go about getting them together?

A. Well, just told them we would gather up at the Peterson Hotel and would talk the proposition over.

Q. Well, did you take that up with any of the crew or individually?

A. Oh, not individually; just around throughout the yard, whoever happened to be working with me.

Q. How many did you see?

A. How is that?

Q. How many boys did you see about attending the meeting?

A. Oh, gosh, I cannot tell you. It is not easy to tell exactly.

Q. Now, did Mr. Conlee make any suggestion to you about having such a meeting?

(Testimony of George Willard Cronkright.)

A. No, sir.

Q. Did he talk to you about it at all?

A. No, sir.

Q. Or did you talk to him about it? [108]

A. I asked him to come up there.

Q. Oh, you asked him to come up?

A. I did.

Q. What did he say?

A. He said that he did not know: I told him I thought it would be pretty nice for him to come up there and sit in, that he would see how the boys felt.

Q. Did he finally say whether he would or would not?

A. I don't remember whether he told me he would come or not.

Q. However, when the meeting was held he did come? A. Yes.

Q. Now, were you present at the meeting?

A. Yes, sir.

Q. Do you know who bought the beer?

A. I know who bought some of it. I paid for some of it.

Q. Did you pay for it with your own money?

A. I certainly did.

Q. How did you buy that beer; bottles or cases?

A. Well, two cases at a time.

Q. Do you know who bought other cases?

A. Yes.

(Testimony of George Willard Cronkright.)

Q. Did you see them pay for it?

A. No, I seen them order it.

Q. As far you know, did Mr. Conlee buy any beer at that meeting? [109]

A. No, sir.

Q. Or did the Schaefer-Hitchcock Company buy or pay for any beer at that meeting?

A. No, I don't think so.

Q. Now, will you tell us in your own words just what happened at that meeting, as you remember it?

A. Well, we just gathered in there and sat around and talked, and eventually it was brought up that we should go ahead and discuss the proposition which we did, and we discussed it back and forth across the room.

Q. What proposition?

A. Of whether we should unionize or not.

Q. How was it discussed?

A. Well, about the same as if we sat around here and started talking about shooting a deer, and everybody would have something to say.

Q. Is it your recollection a few or many persons participated in the conversation?

A. Well, as I remember it, pretty near everyone had a little something to say. There may have been a few, a half dozen or so, who did not say anything.

Q. Was there any chairman of the meeting selected or appointed?

A. No, I don't think so.

(Testimony of George Willard Cronkright.)

Q. Nobody presided at the meeting? [110]

A. No, sir.

Q. When anyone present talked did he, or did he not, get up and address anyone in particular?

A. No.

Q. Did you hear Mr. P. J. Conlee, the foreman at the plant, say anything at that meeting?

A. I did.

Q. Where was he when he said it?

A. Sitting on the floor with his legs crossed.

Q. How did he come to engage in the conversation?

A. I believe someone asked him if he would say a few words, that he probably had been more acquainted with the unions than we had.

Q. And did he respond and say something?

A. Yes, he said,—well, he said, “Before I say anything I want to say this much, the company is not opposed to union labor.” And then he went ahead and told us he had had an experience, I believe, in Minneapolis where it did not turn out so good, that they went on strike and was on strike for a certain length of time and gained nothing.

Q. Do you remember anything else that he stated? A. Pardon?

Q. Do you remember anything else that he said?

A. No.

Q. Did anyone else make any remark or statement in reply [111] to what Mr. Conlee said?

(Testimony of George Willard Cronkright.)

A. Yes, Mr. Damschen said—I don't know if I can quote him exactly, but anyway he said he did not think we should take a vote upon it because there was no one there to speak for the union.

Q. And when he made that statement what happened to the vote?

A. There was none. Somebody ordered two cases of beer.

Q. Was that the end of the discussion about unions? A. Yes, sir.

Q. You did not hear anything further about unions that evening? A. No, sir.

Q. Did you hear anything more about unions from then on during the month of February or month of March around the plant?

A. Well, I was not around the plant much after that.

Q. When you were there did you hear any discussions of the union? A. No, sir.

Q. Did you observe any activity in connection with the union? A. No, sir, none.

Q. Now, let's see, you made some remarks at this meeting, didn't you?

A. Yes, I talked a little. [112]

Q. What did you say?

A. I don't remember all that I said.

Q. Do you recall saying something about the Bovill plant recently purchased by the Schaefer-Hitchcock Company having had a union while it was owned by the former owner? A. Yes, sir.

(Testimony of George Willard Cronkright.)

Q. And since then that they had not had a union?

A. Yes, and I stated I was there when the men went back to work and they seemed to be glad to go back to work.

Q. Did you make any other remarks on the subject? A. I don't believe so.

Q. Did you know at the time you attended that meeting that Mr. Clifford Damschen had either joined the union or was a union man in any way?

A. No, sir.

Q. Did you know at any time afterwards while you were around the plant before March 19th?

A. No, sir, and I don't know it now.

Q. Had you heard anything to that effect?

A. No, sir.

Mr. Potts: You may take the witness.

Cross Examination

Q. (By Mr. Brooks) What is your rate of pay, Mr. Cronkright? A. 80 cents an hour.

Q. How long have you been getting 80 cents an hour? [113] A. Since January 1, 1941.

Q. The company put a general raise in effect about the 1st of April?

Mr. Potts: The 1st of April.

A. Yes.

Q. (By Mr. Brooks) Which was it?

A. What is that? I wasn't in the yard at that time.

(Testimony of George Willard Cronkright.)

Q. You did not get a raise at that time, though?

A. No, sir.

Q. When you went to Bovill were you inspecting poles there? A. Yes.

Q. Were you sent there at the time the company began the operation of the plant?

A. That is right.

Trial Examiner McNally: Who sent you?

The Witness: Well, the company did.

Q. (By Mr. Brooks) What individual asked you to go?

A. Well, I don't know whether it was an order from the office, or—I believe it was an order from the office.

Q. Do you remember who told you about it?

A. No.

Q. Did you have written instructions on what you were to do when you got there?

A. No, I went over there to meet a guy from the East who was coming out there to buy some poles. [114]

Q. And what were you to do with respect to——

A. Work with the inspector.

Q. And determine the grade of pole and so on?

A. You are right.

Q. How much beer did you buy that night? You said you bought some of it.

A. I bought two cases.

Q. Were they these stubby bottles?

(Testimony of George Willard Cronkright.)

A. They were pint bottles,—12 ounce bottles or 11 ounces. I can't say which.

Q. 24 to the case? A. That is right.

Q. Did you drink all that beer yourself?

A. I drank my share of it.

Q. Did you drink all of it?

A. Oh, no, I don't think I did.

Q. How much did that cost a case?

A. I believe it was \$3.20 a case.

Q. You spent \$6.40 for beer?

A. That is right.

Q. You spent it out of your pocket?

A. That is right.

Q. Do you know who else paid for any beer?

A. Yes, Charlie Theobald.

Q. Does he work for the company? [115]

A. Yes, sir.

Q. What is his job? A. Common laborer.

Q. Who else bought some that you know of?

A. One of the McInnises bought some,—maybe both of them; I don't know. There were two of them. I am not sure whether Clifford did or not, but there was beer coming so fast I couldn't tell you any more. Charlie Theobald was the first one.

Q. Did you start drinking beer before the discussion ended about unions? A. No.

Q. Did you have to pay for the use of the room in the hotel? A. No.

Q. Did you make arrangements to use the room?

A. Yes.

(Testimony of George Willard Cronkright.)

Q. Were you the first one to get the idea about having this meeting? A. Oh, no.

Q. Who mentioned it to you?

A. I could not say.

Q. You don't remember the first time you heard about it?

A. It was talked of two or three days before we got around to having a meeting.

Q. You were in favor of having this meeting?
[116]

A. Certainly.

Q. Had you heard there had been union talk around among the employees? A. Yes.

Q. When did you hear that?

A. Around there.

Q. I say when?

A. I would say two or three or four or five days before that.

Q. And you and Con Wear talked about it?

A. Only to the extent that we should get together, and if we were going to unionize, go ahead and unionize; otherwise, we would not.

Q. Who suggested the place to have it?

A. I believe I did.

Q. You told Con Wear you thought that would be a good place to have it? A. Yes.

Q. Did Con Wear go with you to make arrangements?

A. I believe he was with me when I made the arrangements.

(Testimony of George Willard Cronkright.)

Q. You asked Mr. Conlee to come to the meeting? A. I did.

Q. What did you say to him when you asked him?

A. I just asked him if he did not want to come up to the meeting.

Q. And you told him what? [117]

A. I told him what we were going to do.

Q. You told him you were going to discuss the union?

A. Discuss the possibilities of whether we would unionize or not.

Q. I believe you stated Mr. Conlee mentioned something about Minneapolis, or his experience in Minneapolis?

A. I believe it was Minneapolis. It was east, and I believe it was Minneapolis.

Q. Was that while he was working for the company in Minneapolis? A. I could not say.

Q. You don't know whether it was the Schaefer-Hitchcock Company in Minneapolis? A. No.

Q. Do you know whether or not Mr. Conlee ever worked for the Schaefer-Hitchcock Company in Minneapolis?

A. I think he did. I don't know for sure. I did not know Mr. Conlee until he came here.

Q. I believe you stated your rate of pay now is 80 cents an hour? A. That is right.

Q. Did anyone reimburse you later on for any part of that \$6.40 you spent for beer?

(Testimony of George Willard Cronkright.)

A. No.

Q. You did not take up any collection among the fellows [118] to give you some help? A. No.

Q. When you were at Bovill at the time the men came to work for the first time for Schaefer-Hitchcock how did you find out that they were glad to come back without the union?

A. I believe Mr. Galway told them that,—that is the foreman and was the foreman when the other company had it——

Q. Yes.

A. And he told them if they wanted to unionize that the company was not opposed to it.

Q. I say, how did you learn that they were happy that there was no union?

A. I would say they were pretty well satisfied to go back to work without the union.

Q. You heard several of them say that?

A. Yes, I talked to them as they were working.

Q. Can you tell me how long it was prior to the date of this meeting that you first got the idea that it would be a good idea to get the boys together to discuss it?

A. Only a few days, four or five days.

Q. And Con Wear was the first man you talked to, wasn't it?

A. No, I think Ed Gillespie was the first one I talked with. [119]

Q. You and Con Wear were together making most of the arrangements, weren't you?

(Testimony of George Willard Cronkright.)

A. No, we weren't.

Q. Who assisted you besides Con Wear in making the arrangements?

A. What arrangements do you mean?

Q. The arrangements for the meeting.

A. We just went around to the men we were working with, and while I asked one man that man might turn around and ask another,—understand?

Q. Yes, but you and Con Wear agreed that that was the way to do it? A. Yes.

Redirect Examination

Q. (By Mr. Potts) When did the party idea strike the crew there? Was it contemplated before that you were going to have a party during the course of the meeting or did it arise after you had gathered there?

A. I believe it was decided after we were there that we were in a good place to drink beer.

Q. What is your idea as to how many employees who were then working were actually present at that meeting? A. All but four or five.

Mr. Potts: That is all.

Mr. Brooks: That is all.

(Witness excused.) [120]

Trial Examiner McNally: We will recess for ten minutes.

(Whereupon a short recess was taken, after which proceedings were resumed as follows:)

Mr. Potts: Call Con Wear.

CON WEAR,

a witness called by and on behalf of the Respondent Schaefer-Hitchcock Company, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Potts) Please state your full name or the name that you generally go by?

A. Con L. Wear.

Q. And your residence, Mr. Wear?

A. Priest River, Idaho.

Q. How long have you lived in Priest River?

A. Since July of 1929.

Q. Are you now employed by the respondent Schaefer-Hitchcock Company? A. I am.

Q. How long have you been employed by that company? A. Since 1930.

Q. During that time where have you been employed by the company? Where have you done your work? A. At Priest River.

Q. In the pole plant that they maintain and operate in [121] Priest River? A. Yes, sir.

Q. Are you the Con Wear who has been mentioned here during this proceeding? A. I am.

Q. What do you do? What is your work? What kind of work have you done during the past year or two in that pole plant?

A. I am running both the jammers,—both gas jammers, and I have inspected poles, and I have loaded poles.

(Testimony of Con Wear.)

Q. During the last year or two or several years, for that matter, have you had any particular job that you worked at all the time, or have you worked at different jobs in the yard?

A. I have worked at different jobs most of the time.

Q. Is there any one job that you have worked at more than another? A. I don't think so.

Q. Now, have you been a straw boss in that yard? A. No, I have not.

Q. Have you had any authority in the yard as to giving orders?

A. No, I have taken my orders from Pat Conlee.

Q. And what was your rate of pay during 1940?

A. 75 cents an hour.

Q. What is your present rate of pay? [122]

A. 80 cents.

Q. When did the increase become effective?

A. I would not say for sure. I believe it was in April, but I would not say for sure.

Q. Anyhow during the spring of this year,—1941, you mean? A. Yes.

Q. Did you receive an increase of five cents an hour? A. I did.

Q. Was there, or wasn't there, a general increase in the plant at that time, at the same time you got your increase? A. There was.

Q. Did you have a conversation with Mr. Clifford Damschen sometime prior to the meeting that was held in the Peterson Hotel at Priest River on

(Testimony of Con Wear.)

February 15, 1941,—during that week or a few days preceding that, that you recall?

A. I believe I asked him if he was going to come up, that we were all going to get together at the Peterson Hotel.

Q. Do you recall the date of that conversation with reference to the meeting?

A. I believe it was the same day as the meeting.

Q. Do you recall where you saw him?

A. I am not sure where I saw him.

Q. What is your recollection of the conversation, or haven't you any? A. I haven't. [123]

Q. Do you remember whether anyone else was with you when you saw him?

A. I don't remember that either.

Q. Do you recall what he said, if anything?

A. No, I don't.

Q. Do you recall anything about your making a statement to the effect that it was going to be a friendly talk or chat among the workers?

A. I believe there was something mentioned that we were all getting together, that we had never been together, all of us at one time since we had worked there.

Q. Now, had you talked to anyone else about this meeting before the day of the meeting, that is, any of the other employees, about arranging the meeting or had anyone talked to you?

A. Yes. I believe George Cronkright and I talked about it.

(Testimony of Con Wear.)

Q. Mr. Wear, when did you first hear of the proposition to have this meeting?

A. I don't know whether it was two or three days or three or four days before the meeting.

Q. From whom did you hear about it?

A. George Cronkright, and I believe, Ed Gillespie.

Q. Do you recall just how it came about, as to who first mentioned it or what the circumstances were? A. No, I can't. [124]

Q. What did you do about it in the way of communicating with others of your fellow workmen there?

A. I believe Mr. Cronkright spoke to several of them and——

Q. Did you tell any of them?

A. I don't remember who I asked. I think I asked certain ones. I asked John Webb if he was going to attend, and he said he did not know if he would or not, and it probably would not amount to anything anyway.

Q. Had you had any conversation with Mr. P. J. Conlee, the foreman, in regard to this meeting at any time before it was held? A. I did not.

Q. Had he ever suggested to you that there be such a meeting? A. He had not.

Q. Or had anybody connected with the Schaefer-Hitchcock Company? A. No, sir.

Q. Do you know whether or not the idea of having a party there in connection with or following the

(Testimony of Con Wear.)

meeting was mentioned before the meeting was actually held?

A. You mean that we were to have a party after the meeting was held?

Q. Yes.

A. I think most everyone intended it to be that way. [125]

Q. Was that what you had in mind?

A. I did.

Q. Well, were you at the hotel when the meeting got together,—when the boys got together at the meeting? A. I was.

Q. And of the men who were then working at the plant how many of them do you think were there?

A. I don't know exactly; perhaps 20; I would not say for sure. I never counted them.

Q. Did you notice whether most of them were there?

A. Most of them were there; all but five or six.

Q. And did you observe that Mr. Conlee, the foreman, was there at any time during the meeting?

A. He was.

Q. Did you know until you saw him there that he was going to be there? A. I did not.

Q. What, if anything, did you do with reference to asking Mr. Conlee to make any remarks during the course of the meeting?

A. Well, the boys had been talking and visiting together and someone suggested that they should

(Testimony of Con Wear.)

see what they should do about union, and no one seemed to say anything, and I asked Mr. Conlee, maybe he knew more about it than the rest of us, about unionizing, that none of us knew anything [126] about it.

Q. Then what happened?

A. He told all of us that we should understand that the company was not opposed to organized labor, and what little business he had had with the union, he did not know whether they had benefited by it or not; he would not say.

Q. Did he mention anything in particular that you recall about his experience other than what you have just stated?

A. He said that they went out on strike for quite a while, and he did not know as they had benefited by striking.

Q. Then did Mr. Damschen say anything that you recall?

A. I don't recall that he did.

Q. Well, after Mr. Conlee had made his remarks did anyone else participate in the conversation or discussion?

A. Someone made the suggestion that we should vote on it, and Mr. Damschen figured that that would not be the right thing to do: so there was no vote taken and no argument about it.

Q. And after Mr. Damschen made his objection did anyone insist or argue again for a vote?

(Testimony of Con Wear.)

A. No.

Q. And then what happened?

A. We drank beer from that time on.

Q. That was when the beer was called for?

A. That is right. [127]

Q. Do you remember who bought the beer?

A. Well, most everyone that was there bought beer.

Q. Did you? A. I did.

Q. Buy a case or more?

A. I bought two cases.

Q. Did you pay for it? A. I did.

Q. With your own money? A. I did.

Q. Who else bought cases of beer?

A. I believe George Cronkright and Charlie Theobald. I don't remember who else.

Q. By the way, did Mr. Conlee stay for the party afterward, or did he leave? A. He left.

Q. Did anyone else leave at that time, or did they all stay, or did some leave?

A. I believe everybody stayed, all but Mr. Conlee.

Q. I beg your pardon?

Trial Examiner McNally: All but Mr. Conlee.

A. All but Mr. Conlee. Mr. Conlee did not stay.

Q. (By Mr. Potts) How long did they stay?

A. I don't know. I stayed there until,—I don't know what time it was when I went home with Mr. Damschen. [128]

(Testimony of Con Wear.)

Q. You and Mr. Damschen left at the same time, did you? A. That is right.

Q. And the party had not broken up at that time? A. No.

Q. That was Saturday evening, wasn't it?

A. Yes.

Q. And you had recovered sufficiently so that you went to work Monday morning, had you?

A. Yes.

Q. From then on did you hear anything around the plant or yard about union or union activity?

A. I never did.

Q. Did you see Mr. Damschen as he was working there in the yard from time to time from then on until the 19th of March? A. I did.

Q. Did you observe any activity on his part in connection with organizing a union, or anything of the kind?

A. I never heard him say a word about unions.

Q. Did you hear anybody else talking it?

A. I did not.

Q. Did you know Mr. Damschen was a member of the union at any time during that period?

A. I did not.

Mr. Potts: You may cross examine.

Cross Examination [129]

Q. (By Mr. Brooks) Mr. Wear, they had two shifts working there at the pole yard not long ago, didn't they? A. They did.

(Testimony of Con Wear.)

Q. How long had those two shifts worked?

A. I couldn't tell how long for sure.

Q. When did they put on the second shift?

A. I don't know whether it was April or May. I could not say for sure when they started two shifts.

Q. Your best recollection is that it was probably April or May?

A. I think that is about when it was. I couldn't say for sure.

Q. When did they take off the second shift?

A. About a month ago.

Q. And you were in charge of one of those shifts? A. Part of the time.

Q. What time did the shifts run?

A. From four thirty to twelve.

Q. That was the second shift?

A. That was the first shift.

Q. From 4:30 in the afternoon?

A. In the morning.

Q. Oh, 4:30 a.m. until 12 noon?

A. That is right.

Q. And the second shift ran from 12 noon until what time? A. Until 7. [130]

Q. During what part of the time were you in charge?

A. When Mr. Conlee left his orders. As soon as he got there he gave us our orders what to do.

Q. Did you go to work at 4:30 in the morning?

A. I did.

(Testimony of Con Wear.)

Q. What time did Mr. Conlee get to work?

A. I couldn't say every morning what time he got there.

Q. As a general rule about what time?

A. 7 or 8 o'clock.

Q. You were in charge until he got there?

A. Sometimes Mr. Conlee was there earlier in the morning.

Q. On those occasions he was not there you were in charge until he got there, were you not?

A. That is right.

Q. What time did you quit work when you came to work at 4:30 a.m.?

A. At 12 o'clock.

Q. Quit at 12 o'clock?

A. I did.

Q. And Mr. Conlee then was in charge of the shift until 7 that night.

A. I don't know what time he left there. I was not there to see him go.

Q. On previous occasions, that is, prior to the time they put on this second shift, you have taken the place of [131] Mr. Conlee, have you not, as the boss of the men there.

A. I have, but it has been not very many times that I have.

Q. And you at all times for the past couple of years have gone about over the yard and have given orders, have you not?

A. At all times, you say?

Q. During the past two years?

(Testimony of Con Wear.)

A. I have not given orders. I have been given orders to take to the inspectors on paper that Mr. Conlee wanted carried out.

Q. And you have given orders by word of mouth, have you not, oral orders to the men?

A. Not very often.

Q. But you have? A. I have.

Q. And you have told men where to work, have you not? A. Where to work?

Q. Yes.

A. I have when Mr. Conlee was not there.

Q. And you have carried out orders that Mr. Conlee gave you and passed them on to the workmen, have you not? A. I have.

Q. You have hired men, haven't you?

A. Not since Mr. Conlee has been on the job.

[132]

Q. By the way, you were in charge of the yard, were you not, for a while prior to Mr. Conlee coming? A. I was.

Q. When did Mr. Conlee come?

A. I don't remember whether it was 1939 or——

Q. It was about two years ago? A. Yes.

Q. For how long before Mr. Conlee got there were you in complete charge of the yard?

A. Not very long. I don't remember whether it was August to November or whether it was July to November. I couldn't say for sure.

Q. It was around four or five months probably?

(Testimony of Con Wear.)

A. Yes.

Q. Then after Mr. Conlee came, when there was only one shift, you assisted him, did you not?

A. No, not all the time. I have loaded poles, and I could not assist Mr. Conlee in his work if I was running machinery.

Q. On those occasions when you were not running machinery you were assisting him?

A. Not always.

Q. About half the time?

A. No, I would not say half the time.

Q. About what percentage of the time?

A. I would not like to say. [133]

Q. As much as a third of the time?

A. I haven't got anything to say about the system or how to do anything.

Q. Well, you have given orders to men as to where they would work and with whom they would work since Mr. Conlee has been there, have you not?

A. Yes.

Q. And isn't it a fact that you hired Joe Crane?

A. No, Mr. Conlee asked me if I would ask Joe Crane to come to work, the same as he has all his help.

Q. Did Mr. Conlee ask you to get somebody for him and you picked out Joe Crane?

A. No, I wouldn't say that.

Q. You mean then Mr. Conlee told you to hire Joe Crane?

(Testimony of Con Wear.)

A. Mr. Conlee has hired every man on the job since I have been there.

Q. Did Mr. Conlee tell you to hire Joe Crane?

A. He told me to ask him to come to work.

Q. Was this February 15 meeting your idea?

A. No, it was not my idea.

Q. I beg your pardon?

A. It wasn't my idea alone.

Q. It was yours and whose else?

A. George Cronkright and Ed Gillespie.

Q. Did you mention it to Cronkright first, or did he [134] mention it to you?

A. I don't know whether it was George Cronkright who mentioned it first, or whether it was I.

Q. You did not start talking about this meeting until you heard there was some talk among the employees of joining a union, did you?

A. I never heard of any talk among the employees about the union.

Q. Did you hear there was some talk among the employees about a union and that some union organizers had been in town?

A. There had been union organizers in town.

Q. And it was after you heard that that you started this talk about the February 15 meeting?

A. That I started the talk?

Q. Put it this way, it was after you heard the union organizer was in town that you and George Cronkright started talking about the meeting?

(Testimony of Con Wear.)

A. That is right.

Q. Now, you introduced Mr. Conlee, did you not, at this meeting at the Peterson Hotel on February 15th and stated that Mr. Conlee had had experience with the union?

A. I think I asked if Mr. Conlee could tell us something about the union. [135]

Q. Didn't you state at that time that Mr. Conlee had had experience with the union?

A. I don't remember that, how I stated that he had.

Q. Well, you knew, did you not, Mr. Wear, that Mr. Conlee had had experience with the union?

A. Yes.

Q. And how did you know that?

A. Well, we got machinery from Minneapolis and it was marked up with CIO and different organization marks, and just by that he must have had experience with it. That is where the machinery came from.

Q. You knew Mr. Conlee had come from Minneapolis? A. I did.

Q. Did he come here from the Schaefer-Hitchcock Company plant in Minneapolis?

A. I don't know whether he worked for the Schaefer-Hitchcock Company plant or who he worked for.

Q. You had talked to Mr. Conlee, had you not, prior to this February 15 meeting about his experience with the union back there?

(Testimony of Con Wear.)

A. I had not.

Q. You mean before you had this meeting in the hotel you had never talked with Mr. Conlee about the union?

A. I don't believe I ever had.

Q. Isn't it true, Mr. Wear, that you knew how Mr. Conlee [136] felt about the union before you introduced him? A. No, I did not.

Q. You are sure you did not know it at the time you introduced him? A. I did not.

Q. Did you not sign an affidavit, Mr. Wear, before an agent of the National Labor Relations Board by the name of Smiley? A. I did.

Q. And you read that affidavit before you signed it, didn't you? A. Yes.

Q. You swore to it? A. Yes.

Q. Now, isn't it true that you stated in that affidavit that you introduced Mr. Pat Conlee as a man who had had experience with the union in the East?

Mr. Potts: Objected to unless the witness is shown the affidavit.

Trial Examiner McNally: He may answer.

A. I don't remember how I introduced Mr. Conlee at the meeting, and how it was worded, for sure.

Q. Is it your testimony now—I want to be sure that I understand you—is it your testimony that at the time you introduced Mr. Conlee at that meeting you did not know [137] how he felt about the

(Testimony of Con Wear.)

union?

A. I don't know to this day how Mr. Conlee feels toward the union.

Q. Well, you heard him make his statement about how he felt towards the expense of the union and about the strike?

A. He said he did not know whether they benefited by it or not.

Q. You had heard that before from Mr. Conlee, before that day, had you not?

A. Before that day? Before we had our meeting?

Q. That is right.

A. I don't believe Mr. Conlee and I ever talked about a union before that day.

Q. Is it your testimony then that because you had seen some machinery from Minneapolis that had Labor Union stickers on it that is the reason you thought Mr. Conlee had had experience with unions? A. Yes, sir.

Q. That is the only reason you had for believing it?

A. He has never talked about unions and never told any of us about the union.

Q. Is that the only reason you had for believing Mr. Conlee had had experience with the union in the East? A. That is right.

Q. Do you recall stating in that affidavit in August, [138] 1941: "My present capacity is that of straw boss."

(Testimony of Con Wear.)

A. I believe that was when we were running two shifts.

Q. Yes; you did state that in your affidavit?

A. That is right.

Q. And that was true?

A. When we were running two shifts.

Q. Do you remember when Mr. Damschen was dismissed from the employ of the company?

A. Yes.

Q. There were some new tractor drivers hired after that, were there not? A. Yes.

Q. And who were the new tractor drivers hired after Damschen's dismissal?

A. Roy Dempsey.

Q. Anybody else?

A. There was one man hired along while afterwards on the Ford tractor.

Q. Do you remember his name?

A. I don't remember who the first man was.

Q. Can you tell us who the tractor drivers were when you had two shifts this year?

A. Orville Gillespie and Sam Dalebout.

Trial Examiner McNally: How is that?

Mr. Schaefer: D-a-l-e-b-o-u-t (spells it). [139] I am not sure whether that is correct or not.

Trial Examiner McNally: Can anybody, any of you gentlemen give the correct spelling?

Mr. Schaefer: There is no "a" after the "e". It is Dalebout (spells it).

(Testimony of Con Wear.)

Q. (By Mr. Brooks) That is Roy Dempsey, Orville Gillespie, and Sam Dalebout. Anyone else that you can tell about?

A. And Fay Dempsey.

Trial Examiner McNally: Is that the same Dempsey that has been referred to throughout, or is there another Ray Dempsey?

Mr. Brooks: No, Fay is the man who has been referred to as tractor driver.

Q. (By Mr. Brooks) Was Clyde Wear on there when the two shifts were on? A. No.

Q. You had six, did you not, altogether, when there were two shifts? A. Yes.

Q. You have named four. Can you name the other two?

A. Who have I named? Roy Dempsey and Fay Dempsey?

Q. And Gillespie and Dalebout.

A. Gillespie and Dalebout and Cleo Thomas and Ed Dalebout.

Q. Was this Orville Gillespie that you named the one who [140] talked with you and Cronkright about this meeting of February 15? A. No.

Q. That is a different Gillespie?

A. Ed Gillespie was the one who talked with us.

Q. Is he Ed Gillespie's brother?

A. Orville Gillespie's father.

Mr. Brooks: I see. That is all.

(Testimony of Con Wear.)

Redirect Examination

Q. (By Mr. Potts) Now, let's find out about who gave the orders around this plant. When you gave any orders to any man, if you did, were they your orders or the orders of the foreman?

A. They were the orders of the foreman.

Q. And where did you get your instructions and orders? A. Mr. Conlee gave them to me.

Q. Did you have at any time any right to hire or fire men at the plant? A. I did not.

Q. And did you ever do it? A. I did not.

Q. Did you have the right or were you called upon to recommend hiring or firing of men?

A. No, sir.

Q. When you described yourself as a straw boss in the [141] summer of 1941, what were you doing during that period? That is to say, was that the time that the double shift was on?

A. That was when the double shift was on.

Q. When, during a few hours of the day you were highest man in authority in the plant, were you? A. Until Mr. Conlee arrived there.

Q. Until he arrived there. And that was during what period or time of day?

A. From 4:30 until 7 or 8 o'clock.

Q. From 4:30 in the morning until 7 or 8 o'clock in the morning? A. In the morning, yes.

Q. And what was the situation as to whether the work was lined out for those early morning hours before the men came to work?

(Testimony of Con Wear.)

A. Mr. Conlee left his orders in the afternoon on his desk, what he wanted done, on a paper.

Mr. Potts: That is all.

Examination

Q. (Trial Examiner McNally) Mr. Wear, when you were not acting as straw boss will you tell us just what you did and how you did it?

A. Well, I ran a Michigan loader.

Q. How is that operated? [142]

A. Gas and air.

Q. What does it do? How does it work?

A. It has a boom on it and a line on the boom, and we hook the poles on the line and put them on the cars.

Q. Are there any men other than yourself required in that operation?

A. To make this machine work, you mean?

Q. Well, when the machine is being used?

A. Yes.

Q. How many men?

A. One man that hooks on the ground and two men on the car.

Q. Well, who supervises those three men?

A. The foreman.

Q. Who is the foreman? A. Mr. Conlee.

Q. Is he in and around the yard at all times?

A. At all times.

Q. You do not issue any orders to the three men or tell them just what you want done?

(Testimony of Con Wear.)

A. No, Mr. Conlee tells them how to stake their cars and what he want branded. That is about all there is to it.

Q. You have no occasion to speak to those men at all with reference to the work?

A. Not at all. [143]

Q. You have nothing to say to them at all?

A. How to do their work.

Q. What, if anything, do you say to them about their work while you are operating this loader?

A. Nothing. They tell me what to do.

Q. All right. When you operate the jammers how many men are involved in that?

A. Well, there are two men on the car and one man to hook them if they are hooking dry poles.

Q. Now, do you have anything to do with those men in the way of giving them instructions while you are operating the jammer? A. No.

Q. You don't have anything to say to them at all?

A. No, no more than a conversation when we talk among yourselves.

Q. How do they know what to do?

A. They get their orders from Mr. Conlee, what to do.

Q. When you inspect poles, how is that operation carried on?

A. By measurement to get the different classes and grades.

(Testimony of Con Wear.)

Q. Where are they when you measure them?

A. On a deck.

Q. In a pile? A. Yes. [144]

Q. Is there any other man working with you when you are inspecting?

A. Sometimes and sometimes there is not.

Q. Tell us about when there are other men there?

A. There is one man on each end to measure the ends and see what size they are and to classify them.

Q. Well, what do you do? Just keep the tally or just grade them or just how is it worked?

A. We measure the pole, and whatever size it is we put the class on, what size it is.

Q. Do you measure the poles or do the other employees measure them?

A. No, I measure them.

Q. Is there any other employee working with you when you are inspecting?

A. There is a helper.

Q. What does he do?

A. He measures an end too.

Q. Do you have any occasion to tell him what to do or what you want him to do?

A. Not unless he,—he tells you the measurement and if you don't hear it you ask him for it again.

(Testimony of Con Wear.)

Q. Where does he get his instruction?

A. When he goes to work from the foremen.

Q. Now, in operating either of the jammers or the loader or [145] in the inspecting of the poles how do these men happen to work with you? Who tells them to work with you? A. Mr. Conlee.

Q. How does he do it?

A. He asks them if they will go with me to get an order out.

Q. Does he ever tell you to get the men and do the work?

A. Oh, he may once in a while but most always he tells who to get and where to go.

Q. Well, is there anybody out there at the pole yard besides Mr. Conlee who is a foreman or supervisor? A. There is not.

Q. He is the only one? A. Yes.

Q. And he is in full charge of the operations?

A. He is.

Q. Well, who is next in authority, if anybody?

A. Well, I don't know as there is anybody.

Q. Do I understand you to say when Mr. Conlee is away you take his place? A. I have.

Trial Examiner McNally: Anything further?

Mr. Brooks: Yes.

Trial Examiner McNally: Did you have some more?

Mr. Potts: Just a question or two. [146]

(Testimony of Con Wear.)

Redirect Examination

Q. (By Mr. Potts) In the operation of the loaders and the jammers are they operated by a crew of men each one of whom has certain work to do? A. That is right.

Recross Examination

Q. (By Mr. Brooks) Does the loader work all the time? Is it in operation all the time at the yard when you are loading poles?

A. When we are loading?

Q. Yes.

A. Is the loader in operation all the time?

Q. Is the loader in operation at all times when poles are being loaded? A. Yes.

Q. What I am driving at, Mr. Wear, does the loader just operate on rare occasions or does it work pretty steadily?

A. We load all the untreated poles with the loader.

Q. So that it works every day?

A. Whenever we have orders to load.

Q. That is not your regular job, to operate that Michigan loader, is it?

A. I don't know what my regular job would be there.

Q. There are other men who operate that Michigan loader, aren't there? [147]

A. Not very many.

(Testimony of Con Wear.)

Q. How many men operate it from time to time?

A. Two or three, I guess.

Q. Don't you have some men who are regularly assigned to operate that Michigan loader?

A. Now?

Q. Yes.

A. Yes, it is up at Sandpoint in the woods.

Q. Before it left, when it was working out here, did you have men regularly assigned to it?

A. Yes.

Q. And you merely filled in, did you not, when you worked the loader? A. That is right.

Q. The jammer does not work all the time, does it? A. Not all the time.

Q. And were there other men regularly assigned to work the jammer? A. No.

Q. You were the only one who ever worked it?

A. No, I am not the only one who ever worked it.

Q. Well, how did you work that? Did you work it sometimes and sometimes somebody else work it?

A. Yes, sir.

Q. It was dependent on how much work was going on [148] in other parts of the yard, wasn't it?

A. No, if someone wasn't there I filled in for him.

Q. Can you tell me, Mr. Wear, the approximate size of the pole yard, the area it covers?

A. No, I can't.

(Testimony of Con Wear.)

Q. 25 acres?

A. I don't know the dimension exactly.

Q. Can you tell me about how many yards long it is? A. No.

Trial Examiner McNally: Can that be furnished by anyone else? Can you tell me, Mr. Schaefer?

Mr. Schaefer: About 17 acres including the upper yard, the west yard.

Trial Examiner McNally: What is referred to as the upper yard?

The Witness: They call it the upper yard because it is elevated about ten feet. The ground is 10 or 12 feet higher. One is called the west and the other the east yard.

Mr. Brooks: I wonder if we could find out about it, Mr. Examiner, while we are on the subject, the width and length, if Mr. Schaefer has that.

Trial Examiner McNally: Can you approximate it?

Mr. Brooks: Maybe Mr. Conlee knows it.

Mr. Conlee: I haven't any figures on it. [149]

Mr. Schaefer: It is irregular, and it is hard to figure out unless you survey it.

Q. (By Mr. Brooks) Where is Mr. Conlee's office located in the yard as to one end or the other or the middle, running lengthwise?

A. I would say it was pretty close to the center of the yard or the middle of the yard.

Q. And Mr. Conlee keeps his records there in that office, does he not? A. That is right.

(Testimony of Con Wear.)

Q. And handles all orders there in the office, does he not? A. Yes.

Q. Is there any other office employee working in that office regularly? A. No.

Q. Well, isn't it true, Mr. Wear, that many times you are asked by Mr. Conlee to tell the men to do a certain thing and then you go to the men and pass on the orders of Mr. Conlee?

A. I have, and also helped them do it.

Q. Yes, and worked along with them?

A. Yes.

Q. But on those occasions you are the one immediately in charge of the work, are you not, subject, of course, to the direction of Mr. Conlee above you?

[150]

A. He is most always there to see that we do it the way he wants it.

Q. But there are occasions when he is not there, isn't that true? A. Perhaps.

Mr. Brooks: I think that is all.

Mr. Potts: That is all.

Trial Examiner McNally: You may be excused.

(Witness excused)

CHARLES E. LEOBOLD,

a witness called by and on behalf of the Respondent Schaefer-Hitchcock Company, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Potts) Your full name, Mr. Leobold?

A. Charles E. Leobold.

Q. Your residence? A. Priest River.

Q. How long have you lived in Priest River?

A. 22 years.

Q. Are you employed at the cedar pole plant of the Schaefer-Hitchcock Company in Priest River?

A. I am.

Q. How long have you been employed there?

A. About three and a half years. [151]

Q. In what capacity?

A. Well, I was just general laborer.

Q. What does that labor include specifically in the pole yard operation?

A. Well, it would be tailing down poles and decking and skidding poles. Usually I am,—most of the time since I have been down there I have been working on the skidway where they peel the poles and get them ready for the perforating machine.

Q. In this pole yard there are a number of skidways on which the poles are skidded or decked in piles? A. Yes.

Q. And then there are skidways that lead to certain types of preparation of the poles?

(Testimony of Charles E. Leobold.)

A. Yes.

Q. And on one of them is where you have been working? A. Yes, that is where I work.

Q. What were you doing last February and March?

A. We were getting out poles. I was probably peeling poles, that is, peeling butts and getting them ready for perforation.

Q. Were you working in the pole yard at Priest River during the months of February and March, 1941,—throughout those months?

A. I was, yes, sir. [152]

Q. Did you attend a meeting of the employees working there in the pole yard on February 15, 1941? A. Yes, sir.

Q. When did you first hear of that meeting?

A. Oh, about ten o'clock Saturday morning.

Q. Who did you hear about it from?

A. I could not say whether it was one of the boys working there at the skidway who asked me or who did ask me. I wouldn't know.

Q. You learned there was to be a meeting?

A. Yes, I learned there was to be a meeting, and if I remember right, whoever told me, I said "I don't know whether I will be there or not. I am not very much interested."

Q. You did attend, however?

A. I did attend, yes.

Q. Up to that time had you heard anything about

(Testimony of Charles E. Leobold.)

organization work or a union or any union activities around about the yard?

A. Not about the yard, no.

Q. Had you heard or did you know from any source that there had been some union organizer who came into Priest River territory?

A. Yes, I did.

Q. But you had not seen any evidence of union activity [153] in the yard?

A. Well, outside of I think I saw a union paper of some sort in the boiler room. I don't know how it got there or where it came from or anything else, but that is all.

Mr. Potts: That is all. Oh, yes, I have a little more.

Q. (By Mr. Potts) You hadn't seen any person who you knew belonged to a union?

A. Not that I knew belonged to any union or was an organizer, no.

Q. When you arrived at the meeting, had the crowd gathered or at about what stage of the proceedings did you arrive?

A. Well, I think the meeting was to be at two o'clock or thereabouts, and I got there just about that time, and practically all the yard crew were there at that time, when I got there.

Q. Now, about that hour, do you think it was two o'clock or some other hour?

A. No, it was about two o'clock or two-thirty.

(Testimony of Charles E. Leobold.)

Q. That was Saturday afternoon?

A. Saturday afternoon.

Q. And the crew was off? A. Yes.

Q. What did you first hear at the meeting?

A. Well, about the first thing that was said to me was,—Mr. Cronkright and I and several others were kind of in a [154] bunch by ourselves. I don't remember just what we were talking about, but he said to me, "Won't you act as Chairman?" And I said, "No, I will not. I am one of the youngest members of the crew in the yard, and I think it would be much better if we had a chairman, for you to act as one." So that is about the first conversation we had at that time.

Q. Well, did you have a chairman?

A. No, there was no chairman.

Q. The meeting was never organized as a formal meeting? A. No, sir, it was not.

Q. I just want your recollection as to how it proceeded. What occurred generally without going into detail too much? Did you hear a conversation or remarks in which all participated, particularly with reference to the matter of organizing a union or anything connected with a union?

A. Yes, I think, if I remember rightly, Mr. Cronkright got up and told what the meeting was for, that we were there to either organize or not organize; that it was not necessary to organize but we were there more or less to get the opinion of

(Testimony of Charles E. Leobold.)

the crew as to becoming affiliated with the union or having a union of our own, or something to that effect. And I don't remember just who was the next person who spoke, but I think Mr. Wear had a few words to say, but what they were, I can't recall that either.

Q. Do you recall hearing Mr. Conlee say anything? [155]

A. Mr. Conlee was called upon by somebody—I don't know who. I would not say as to that—to tell just what he— Well, not what he knew about the union but what experience he had had with the unions or something to that effect, and I remember him stating first that the company was in favor of a union if the men wanted one; that they were not objecting to any organization as a member of the union, and then Mr. Conlee, I remember, stated that he had had some experience in connection with,—not that he had any experience, but the experience they had had in one of the yards—where it was I would not say—but that the men had been out some six or eight or ten weeks, something like that, and they had not gained the point by striking. Now, that is the sum and substance of his conversation, as I remember it.

Q. Did you hear Mr. Conlee make any remarks derogatory to the union or the union movement by labor?

A. No, sir, I did not.

Q. Or say anything in opposition to organization?

A. No.

(Testimony of Charles E. Leobold.)

Q. Or to the employees joining the union?

A. No.

Q. Did you get the impression he was antagonistic to the unions? A. No, sir. [156]

Q. Had you had any prejudices one way or the other before you attended the meeting, or rather, any premonition rather than prejudice in favor of or opposed to the labor union——

Mr. Brooks: I object to that as immaterial.

Mr. Potts: It is laying the foundation.

Trial Examiner McNally: He may answer.

Q. (By Mr. Potts) You had? A. Yes, sir.

Q. Were you affected in any way by anything that occurred at that meeting as to your future action? A. No, sir.

Q. By the way, after the discussion about the union, was any action taken of any kind?

A. None, sir.

Q. And the subject was dropped, was it?

A. Well, as the testimony of some of the other men discloses, I can verify as to Mr. Damschen—finally they were willing to vote on it. I think somebody suggested—I think Mr. Gillespie, but I am not certain—taking a vote on it, and Mr. Damschen objected to that. He said, that he hardly thought it was fair for us to vote on it without a representative of the union to argue for the union.

Q. And as a result of his objection, what happened? A. There was no vote taken. [157]

(Testimony of Charles E. Leobold.)

Q. And was anything further discussed than as far as the union matter was concerned?

A. No. There was one or two other boys who got up and said a few words, but I don't just recall what they were.

Q. And the meeting turned itself into a party?

A. Yes, sir.

Q. And did you participate in that?

A. I did, sir.

Q. Did you buy a case of beer?

A. I bought two cases of beer.

Q. You bought two cases? A. Yes.

Q. Did you pay for them yourself?

A. Yes, sir, by check.

Q. With your own money?

A. Yes, sir, my own personal check.

Q. Did others participate in the drinking of those two cases, or did you drink it all yourself?

A. No, sir, there were 22 of us there.

Q. Now, after that meeting during the rest of the month of February and up through March, did you continue to work in the pole yard?

A. Yes, sir.

Q. Were you there every working day?

A. Yes, sir. [158]

Q. Did you observe any union activity in or about the yard during that period? A. No, sir.

Q. Did you observe any activity on the part of Mr. Damschen— A. No, sir.

(Testimony of Charles E. Leobold.)

Q. —in any way? A. No, sir.

Q. Did you know whether or not he was a member of the union?

A. No, sir, I had no way of knowing.

Mr. Potts: That is all.

Cross Examination

Q. (By Mr. Brooks) What is your rate of pay?

A. 65 cents an hour.

Q. When was it raised from 60 to 65?

A. I would say probably the first of April or May.

Mr. Brooks: That is all.

Mr. Potts: That is all.

Trial Examiner McNally: You may be excused.

(Witness excused)

R. E. McKEE,

a witness called by and on behalf of the Respondent Schaefer-Hitchcock Company, being first duly sworn, was examined and testified as follows: [159]

Direct Examination

Q. (By Mr. Potts) Your full name, please.

A. Ruben E. McKee.

Q. Residence? A. Priest River.

Q. How long have you lived in and about Priest River? A. Since August of 1925.

(Testimony of R. E. McKee.)

Q. Are you employed by the Schaefer-Hitchcock Company at the pole yard in Priest River?

A. I am.

Q. How long have you been employed there?

A. Well, ever since it has been the Schaefer-Hitchcock Company, and then I worked for the Kaniksu Cedar before from 1927.

Q. What is your job in the pole yard?

A. I run a steam hoist.

Q. What does the steam hoist do? What function does it perform?

A. As the poles are treated or punctured or perforated—whatever you call it, and rolled down I pick them up with the boom and swing them over and put them in the vat and they are treated and taken out and from there put on the loader.

Q. Were you doing that type of work the last couple of weeks in March? [160]

A. I was.

Q. Were you at the pole yard during those months regularly on working days?

A. February and March?

Q. Yes. A. Yes.

Q. Did you attend this meeting of the employees at the Peterson Hotel in Priest River on February 15, 1941?

A. I did.

Q. When did you first hear about that meeting?

A. Oh, it was around about 10:30 or 11 o'clock, maybe 12. I could not say for sure.

Q. On that same day?

(Testimony of R. E. McKee.)

A. On that Saturday.

Q. From whom did you hear about it?

A. Well, I could not say whether it was George Cronkright or Con Wear or Sam Lynn; but anyway, I heard there was going to be a meeting.

Q. And it did not impress itself on you as to just who told you? A. No.

Q. Well, had you seen any evidence of union or organization activity around the yard before that date? A. No, sir.

Q. Had you heard there was a union organizer in the yard? [161] A. Yes, sir.

Q. And did you know that the purpose or at least one of the purposes of the meeting was to discuss the question of unions? A. Yes, sir.

Q. What is your recollection of what occurred at that meeting briefly?

A. Well, we went up there to the Peterson Hotel and gathered in there, and when they got around to it somebody made the suggestion that if we were going to do anything one way or the other, we should find out what we were going to do and better get started. So somebody asked questions and this and that and there was a conversation.

Q. Did you hear Mr. Pat Conlee the foreman make any remarks there?

A. Yes, he was asked about his experience.

Q. You heard him make some remarks?

A. Yes.

(Testimony of R. E. McKee.)

Q. Did someone ask him some questions?

A. Yes, somebody did ask him if he would state his,—well, what the attitude with the union or his experience of any kind with the union had been.

Q. Now, have you a fairly distinct recollection of what he said there?

A. Well, only that he made it very strong that the company [162] was not opposed to the union or that it made no difference,—he did not tell anybody not to belong to it or to it, or anything about it.

Q. From what you heard him say, did it have any influence on your views on the union question?

A. No, sir.

Mr. Brooks: I move to strike the answer and interpose an objection to the question that this line of inquiry is immaterial and I object to the question for that reason.

Trial Examiner McNally: The objection is well taken in my opinion.

Q. (By Mr. Potts) Did you remain at the meeting for some time after they quit talking about unions——

A. Yes.

Q. —and anything in connection with them?

A. Yes.

Q. You stayed for the party? A. Yes.

Q. Now, after the meeting was over and during the rest of the month of February and March, did you observe any union activity around the plant of any kind? A. No, sir.

(Testimony of R. E. McKee.)

Q. Did you see Mr. Damschen from time to time around there? A. Yes. [163]

Q. Did you observe any activity on his part in connection with the union or organization of a union? A. No, sir.

Q. Did you know that he was a member of a union? A. I did not.

Mr. Potts: You may cross examine.

Cross Examination

Q. (By Mr. Brooks) What is your rate of pay?

A. What?

Q. What is your rate of pay?

A. 75 cents an hour.

Q. You operate this hoist? That is the only job you do,—operate this hoist?

A. Oh, I do other things if it is not running, but when it is running steady that is what I do. That is my regular job.

Q. That is your regular job? A. Yes.

Mr. Brooks: That is all.

Mr. Potts: That is all.

Trial Examiner McNally: You may be excused.

(Witness excused)

PATRICK J. CONLEE

a witness called by and on behalf of the Respondent Schaefer-Hitchcock Company, being first duly sworn, was [164] examined and testified as follows:

Direct Examination

Q. (By Mr. Potts) What is your full name, Mr. Conlee? A. Patrick J. Conlee.

Q. And you reside in Priest River?

A. Priest River.

Q. And you are the foreman at the pole yard of the Schaefer-Hitchcock Company in Priest River?

A. Yes, sir.

Q. How long have you had that position?

A. Since November, 1939.

Q. As foreman of the poleyard what are your duties generally speaking?

A. Well, to take care of the orders, to see that they are filled and shipped out and when the poles come in to see that they are properly put away and decked. I have full supervision of the men doing that work.

Q. Is there anyone else at the pole yard who is in charge of any of its operation other than you?

A. No, sir.

Q. Have you any assistant foremen?

A. No, sir.

Q. Or any supervisory officials under you?

A. No, sir.

Q. In performing your duties do you occasionally pass [165] orders on through someone else?

(Testimony of Patrick J. Conlee.)

A. I do.

Q. What has been the status of Con Wear in the pole yard since you have been there in regard to having any authority in connection with its operation.

A. Well, I have considered Mr. Wear as a kind of a general utility employee whom I put wherever I need him. That is, there are times I might have something to do down at one end of the yard, and I might ask Con to transmit to the inspector down there or the man handling the poles from that end of the yard my orders telling them what to do.

Q. Does he work during regular hours at some job or other in the pole yard?

A. Some job or other, yes. He has no definite assignment.

Q. That is, he goes from one job to another that he is capable of performing——

A. Yes.

Q. —on your orders?

A. Yes, sir.

Q. Has he any authority to hire or fire men?

A. No, sir.

Q. Or to recommend the hiring or firing of men?

A. Well, he may recommend, and when I first came in here I was not familiar with the men and sometimes I might ask Con whether this man was a good man or that one was. [166]

Q. When you came here had you come from another operation of the Schaefer-Hitchcock Company?

(Testimony of Patrick J. Conlee.)

A. Well, the operation I came from was the Consolidated Company. Previous to that I was operating a yard for the Schaefer-Hitchcock Company.

Q. Mr. Conlee, it is in evidence that you attended a meeting of the employees held in Priest River on February 15, 1941. How did you happen to attend that meeting?

A. Well, I was invited by Mr. Cronkright and I think Mr. Wear and Mr. Ed Gillespie, who was there at the time. They invited me to attend this meeting.

Q. Did you have anything to do with the calling or holding of that meeting? A. No, sir.

Q. Did you know it was to be called or held until you were told or invited to come by those gentlemen?

A. No, sir, that was my first intimation of it.

Q. And when was that intimation or invitation given to you?

A. Well, it was just about noon or just before quitting time; not more than an hour before quitting time.

Q. At noon on Saturday? A. Yes.

Q. Oh, was the plant operating Saturday mornings? A. Yes.

Q. Your operations there in the pole yard in February [1941] and March were on what basis as to days? A. A forty hour week.

Q. How was the forty hour week distributed as to days?

(Testimony of Patrick J. Conlee.)

A. Five seven hour days and five hours on Saturday.

Q. So that it was at the plant an hour or so before closing time at noon that this occurred?

A. Yes.

Q. What was your response to them? What did you say?

A. Well, I kind of hesitated. I said I did not think I ought to attend the meeting. They kind of urged me and said it would be a good thing if I went up there, that they would like to have me.

Q. So you went? A. So I went, yes.

Q. After you got there what is your version of what transpired at that meeting?

A. Well, it is a good deal as has been testified here. The boys congregated there and there was more or less pro and con talk, some talking about the unions and some talking about something else, and I don't recall very well who did the talking or what was said particularly.

Q. Well, at some stage of the meeting did you make some remarks?

A. I did after the meeting was about to end. I think that I was asked to make some remarks, yes.

[168]

Q. How did that come up?

A. Well, I think someone asked if I would say something in regard to unionism as it was back in Minneapolis.

Q. And what did you say?

(Testimony of Patrick J. Conlee.)

A. Well, I recall stating that,—the first thing I said was that the company had no objection to whether men organized or did not organize; and then I believe I stated that from what I had seen of union in Minneapolis I did not think they had benefited from the union due to the fact that they had been on strike for sometime.

Q. What did you refer to in that connection?

A. Well, I had in mind a strike had occurred in the cedar pole yards in Minneapolis.

Q. While you were there? A. Yes.

Q. Before you came out here? A. Yes, sir.

Q. Do you recall anything further that makes any impression on your mind as to what you said?

A. No, I can't recall anything further.

Q. Now, did you advise or say anything to the effect that the employees could get no benefit or no benefit would be derived by the employees membership in a labor union?

Mr. Brooks: I object to the question as calling for a [169] conclusion of the witness. Let him state what he said. Whether or not a certain conclusion could be or would normally be drawn from that is a conclusion for the Examiner and the Board.

Trial Examiner McNally: I understand counsel is asking the witness for what he said.

Mr. Potts: Yes.

Mr. Brooks: No.

Trial Examiner McNally: Read the question.

(Question read)

(Testimony of Patrick J. Conlee.)

Mr. Brooks: Withdraw the objection.

Trial Examiner McNally: Very well.

A. No.

Q. (By Mr. Potts) Did you state at that meeting that the employees of the Schaefer-Hitchcock Company should not join the union?

A. No, sir.

Q. Did you make any statement in words or substance that the Schaefer-Hitchcock Company would close its plant or curtail operation if the employees joined or were involved in the union?

A. No, sir.

Q. Did you make any statement at that meeting that you believe to be derogatory of labor unions?

A. I don't think so. [170]

Trial Examiner McNally: Well, did you say anything about unions that was critical?

The Witness: I don't recall that I said anything of unions. I merely expressed myself as to what had happened and what I had seen happen of men going on strike and staying out for a considerable time and not gaining anything by it.

Q. (By Mr. Potts) Mr. Conlee, since you have been here in charge of this Priest River pole yard of the Schaefer-Hitchcock Company, have you ever taken any position antagonistic to labor unions?

A. No, sir.

Q. Or have you opposed the organization of that plant by labor unions?

A. No, sir.

Q. Have you ever received any instructions from

(Testimony of Patrick J. Conlee.)

your superiors in the company to oppose labor unions? A. No, sir.

Q. Do you know what the general attitude of the company and its officers is toward labor unions?

A. I think I do.

Q. Is it antagonistic or not? A. No, sir.

Q. By the way, did you hear Mr. Damschen make any statement or remarks at that meeting? Do you recall anything in [171] particular that he said at that meeting,—Mr. Damschen, I am referring to?

A. Well, I do recall Clifford said something about being dissatisfied and having a grievance about something. I asked him why he didn't come to the office, and he said that he understood if a man would go to the office, he might get fired. I said, "Those conditions don't exist. Any time any man has got a grievance I am only too glad to see him." I think also Clifford said something about that there should be a labor man there to talk about the labor side of the question.

Q. Now, did anything that he said make any lasting impression on your mind?

A. I don't recall that it did, no.

Q. Did it cause you to have any feeling of antipathy toward him?

A. None whatever.

Q. Did you lay off or discharge Mr. Damschen on March 19, 1941? A. Yes, sir.

Q. That was how long after this meeting of February 15, 1941?

(Testimony of Patrick J. Conlee.)

A. Something over a month.

Q. During that period of over a month had you seen any evidence of activity by Mr. Damschen in favor of organizing [172] that pole yard?

A. No, sir.

Q. Had you seen any evidence of union activity on his part? A. No, sir.

Q. Did you have any knowledge that he had become a member of any labor union?

A. No, sir.

Q. Did you have any conversation that led you to believe that he was pursuing any course of conduct whatever toward the organization of a union at the plant? A. I did not.

Q. And as a matter of fact, had anything been done toward organizing a union at that plant during that period that you know of?

A. As far as I know of, nothing.

Q. Why did you discharge Mr. Damschen from the employment of the company on March 19, 1941?

A. Well, we laid off one tractor. We were about to lay off one tractor, and Mr. Damschen was chosen as the man to go.

Q. You decided to lay him off instead of others?

A. Yes, sir.

Q. Was your decision to lay him off influenced by reason of any union activity on his part?

A. No, sir, I did not know that he was active.

[173]

Q. Was it influenced by anything that occurred at this meeting on February 15, 1941?

(Testimony of Patrick J. Conlee.)

A. No, sir.

Q. Did you lay him off or discharge him because of union activity?

A. No, sir.

Q. Or because of his membership in a union?

A. No, sir.

Q. Now, we have heard some talk about tractors here. What are these implements or machines that we call tractors that are operated out in this pole yard?

A. Well, a tractor is a general name for them.

Q. What size tractors are they?

A. They are gasoline operated machines.

Q. What size are they?

A. Well, I think the ones we have down there are,—I could not say, but I think probably three or four ton.

Q. Well, using relative terms, are they small, medium or large?

A. Well, I would say they are medium; two medium and one small.

Q. Now, where are they operated?

A. They are operated around the yard in handling poles.

Q. And on what kind of road bed?

A. Well, they handle long trams, wooden trams, and also [174] dirt.

Q. In handling poles how do they handle them? Skid them?

A. Skid them behind; hook them on a chain and drag the poles behind.

(Testimony of Patrick J. Conlee.)

Q. Is that very difficult work, to operate one of those tractors in that pole yard skidding poles?

A. Not particularly difficult.

Q. Does it require any great amount of skill?

A. No skill whatever.

Q. Does it require any preliminary training for the common ordinary man who is accustomed to drive a motor car to go in there and operate one of those tractors? A. No, sir.

Q. And as a matter of fact, in practical operations of the yard what has been the practice as to putting men in charge of the operation of the tractors from day to day without previous experience?

A. Well, we have taken men out of the yard off of other jobs that could operate an automobile and put them on a tractor.

Q. And what has been the practice with respect to going from the tractor to other jobs, or vice versa?

A. Well, the two tractors that Clifford and Fay Dempsey handled or drove,—they were regularly assigned to that work, but we had a Ford tractor down there that only [175] operated intermittently, and we just picked up somebody to put on it and use it as we needed it.

Q. Was one of the tractors discontinued on March 19, or immediately thereafter?

A. Yes, sir.

Q. From that time on for sometime how many tractors were you using in the yard?

(Testimony of Patrick J. Conlee.)

A. Just the one most of the time, and the small tractor part of the time.

Q. Now, did you put on a double shift sometime during the year? A. Yes, sir.

Q. Do you recall, Mr. Conlee, the dates?

A. I think it was May 15 or 16.

Q. Is it not on now, is it? A. No.

Q. When was it discontinued?

A. Discontinued on August 15.

Q. There was a double shift for three months?

A. Yes.

Q. Now, during that period did you have more tractors in use or how was it?

A. Same number of tractors, but we worked them through both shifts.

Q. I got the impression that there were three tractors in use during that period? [176]

A. Yes, sir.

Q. But before that you were using only the two, were you not? A. Yes, sir.

Q. Now, what are you using now?

A. We still have three.

Q. Are you still using three or two?

A. Three.

Q. Are you using three now? A. Yes.

Q. Now, at the time Mr. Damschen was laid off on March 19, 1941, who were the other tractor drivers?

A. Fay Dempsey was driving one tractor, and I don't recall just who was driving the small tractor.

(Testimony of Patrick J. Conlee.)

I don't think there was anybody regularly assigned to drive it.

Q. Who and what type of man is Fay Dempsey?

A. Fay Dempsey,—well, he is a crippled hunch-back.

Q. Is he capable of doing any other type of work in that yard except drive that tractor?

A. No, sir.

Q. Do you wish to keep him on that job?

A. Yes, sir.

Q. And have you kept him on that job?

A. Yes.

Q. And is he capable of operating a tractor?

[177]

A. Yes, sir.

Mr. Potts: You may examine.

Mr. Brooks: May we go off the record?

(Discussion off the record.)

Trial Examiner McNally: After discussing the matter off the record with counsel, it has been agreed that we should adjourn now until 9:30 in the morning. The hearing stands adjourned until 9:30.

(Whereupon the hearing was adjourned at 4:35 p.m. September 15, 1941, until 9:30 a.m. September 16, 1941.) [178]

City Hall,
Priest River, Idaho.
September 16, 1941.

The above-entitled matter came on for hearing at 9:30 o'clock a.m., pursuant to adjournment as follows:

Before: P. H. McNally, Trial Examiner.

Appearances:

Charles M. Brooks, Esq., 407 U. S. Court House, Seattle, Washington, appearing for National Labor Relations Board, Nineteenth Region.

C. H. Potts, Esq., Coeur d'Alene, Idaho, appearing for Schaefer-Hitchcock Company.

Charles A. Paddock, Esq., 737 East 34th Street, Spokane, Washington, appearing for United Brotherhood of Carpenters and Joiners of America, affiliated with A F of L. [179]

PROCEEDINGS

Trial Examiner McNally: The hearing will come to order, please.

Mr. Potts: Mr. Conlee, will you resume the stand. You may cross examine.

PATRICK J. CONLEE,

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross Examination

Q. (By Mr. Brooks) Mr. Conlee, prior to assuming your present duties, were you employed by the Schaefer-Hitchcock Company?

A. Yes, sir.

Q. Where were you employed immediately preceding your coming to Priest River?

A. The Consolidated Treating Company in Minneapolis.

Q. And where were you employed with the Schaefer-Hitchcock Company?

A. Well, I was a representative of the Schaefer-Hitchcock Company with the Consolidated Treating Company.

Q. When did you first go to work for the Schaefer-Hitchcock Company?

A. Well, I have been connected with the Schaefer-Hitchcock Company since 1929.

Q. Have you been employed by the company at its yard in Minneapolis? [182]

A. Yes, sir.

Q. When did you work there?

A. From 1930 to 1938, I believe.

Q. What capacity did you serve the company in there?

A. Superintendent.

Q. You were superintendent of the entire yard?

(Testimony of Patrick J. Conlee.)

A. Yes, sir.

Q. During that whole time? A. Yes, sir.

Q. While you were superintendent in the Minneapolis yard, was there a strike? A. Yes, sir.

Q. What year was that?

A. I am not sure whether it was 1935 or 1936, the first one.

Q. And was there another one?

A. Another one, I think, in 1938.

Q. In your capacity as superintendent in that yard, did you deal with the union on behalf of the company?

A. Yes, sir. I would like to amplify that answer, however. The industry was organized back there. It was not only our yard that was on a strike but it was all the pole yards.

Q. The entire industry? A. Yes.

Q. When you were invited to this meeting at the hotel held [183] on February 15 you were told what the purpose of the meeting was, were you not?

A. In a general way.

Q. That is, they told you they were going to find out what the views of the employees were?

A. The opinion of the employees, yes.

Q. With reference to a union? A. Yes.

Q. They told you that when they invited you?

A. Yes, sir.

Q. And you at first hesitated, I believe you said?

A. Yes, sir.

Q. —as to whether or not you should go?

(Testimony of Patrick J. Conlee.)

A. Yes.

Q. Had you told Con Wear about your experience in Minneapolis before February 15?

A. I don't recall that I had mentioned it when I first came out. Shortly after I was here Mr. Wear, I believe, mentioned about this car that he testified to yesterday that had these markings on it of the union.

Q. That was sometime in late 1939 or early 1940, probably?

A. Yes, that was shortly after I came out here, and I think he asked me what those markings were, and I told him the business back there had been organized. I don't recall any particular conversation, but it seems to me that—— [184]

Q. Well, you told him too that they had had a strike in that yard too, didn't you?

A. I may have at some time during the conversation.

Q. You did tell the employees gathered at the Peterson Hotel on February 15 that you did not consider the organization of the Minneapolis yard had benefited the men to any extent, did you not?

A. I don't just know.

Q. Well, that in substance?

A. I think I said I did not think the men had benefited.

Q. By the union?

A. By the union, due to the fact that they were

(Testimony of Patrick J. Conlee.)

called on a strike for so long that they had not gained anything, or something to that effect.

Q. Have you been employed, Mr. Conlee, as a tractor driver? A. No, sir.

Q. I understood you to say yesterday that there was absolutely no skill required to drive a tractor?

A. Yes, sir.

Q. Is that your opinion? A. Yes, sir.

Q. Well, isn't it true, Mr. Conlee, that in the operation of the tractor at the pole yard, where the tractor pulls these poles, unless the corners are turned properly, for example, that there might be damage done? [185] A. That is true.

Q. In other words, driving the tractor with a bunch of poles chained to the tractor would be a little different than just getting into the tractor and driving it around with nothing attached to it, isn't that right?

A. Well, yes, it would be a little different.

Q. Now, Damschen's work as a tractor driver was perfectly satisfactory to you, wasn't it?

A. Quite satisfactory.

Q. Did you make the decision yourself without consultation with anyone else to lay off Damschen or discharge him? A. Yes.

Q. And I understood from your testimony that the only reason for that, as you testified, was that you were going to discontinue one tractor on March 19? A. That is right.

(Testimony of Patrick J. Conlee.)

Q. When did you decide to discontinue one tractor on March 19? [186]

A. Well, I think probably a few days previous to that. The tractor was getting worn out, and we had to make some repairs or trade it in for a new one.

Q. Damschen's tractor was just about worn out?

A. No, it wasn't Damschen's tractor; it was the other tractor.

Q. It was the one Dempsey was driving?

A. Yes.

Q. Fay Dempsey? A. Yes.

Q. So when you decided that the tractor that Dempsey was driving was about worn out, you decided to discontinue one of the tractors?

A. Yes.

Q. And you thought,—you think it was two or three days prior to March 19 that that decision was reached?

A. Well, it may have been three or four days or five days previous to that.

Q. How did you make up the time, and what procedure did you go through to turn in the time of the employees that they might get their checks?

A. Well, the time is checked in our office down there, and at the end of the pay period, which is on the 15th and the 1st, we send in the time to the Sandpoint office.

Q. You keep the time of all the employees, do you not? A. Yes, sir. [187]

(Testimony of Patrick J. Conlee.)

Q. Do you remember how many employees you had about the 15th of March when you turned in the time on that date? A. Possibly about 30.

Q. And you turned in the time on the 15th and the checks are made up in Sandpoint? A. Yes.

Q. And then delivered back here, and the men are delivered their checks possibly three or four days after the pay period ends, is that right?

A. Well, the checks generally go up to Sandpoint the day following the end of the pay period. Sometimes they come back the same day, and sometimes the next day and are delivered to the men as soon as they are returned.

Q. When did you decide with reference to the date that you decided to discontinue the tractor that Damschen would be the one to be laid off?

Trial Examiner McNally: Will you please read that question?

(Question read)

A. Well, I think when I decided to lay off the tractor.

Q. Why didn't you tell Damschen at that time?

A. Why?

Q. Yes.

A. Well, I don't know as it is the general practice to tell men beforehand that they are going to be discharged.

Q. Is that the only explanation you have for not telling him? [188] A. I think so.

(Testimony of Patrick J. Conlee.)

Q. Did you tell the company office in Sandpoint at the time you turned in Damschen's time for the pay period ending March 15 that he was to be laid off? A. No, sir.

Q. You gave Damschen's two checks to him on the 19th, did you not? A. Yes, sir.

Q. When was the check made out paying him for the time from the 15th to and including the 19th?

A. The day that the checks came up from Sandpoint.

Q. And were they made out—was that small check made out at Sandpoint? A. Yes, sir.

Q. How did you take care of that?

A. I phoned to the office that morning to make his check out to the end of that day.

Q. Well, if you had decided three or four days before that to lay Damschen off, why did you not tell the company office in Sandpoint at the time you sent in the hours that he had worked on the 15th or 16th?

A. Well, I was not sure what day the checks came back. I wanted to pay him up to the time when he got his paycheck.

Q. And you received the checks back on the 19th, and then after you received them, you telephoned Sandpoint? [189]

A. No, I understood the checks were coming back on the 19th, and I phoned Sandpoint on that date sometime prior to noon, possibly.

(Testimony of Patrick J. Conlee.)

Q. To whom did you talk?

A. I think that I talked with the Cashier at the Sandpoint office.

Q. You didn't talk to Mr. Schaefer?

A. No, not to Mr. Schaefer, no.

Q. Well, hadn't you discussed this question of laying Damschen off with Mr. Schaefer, at all?

A. No, sir.

Q. Well, on the day that you decided that Damschen would be the man that you would discharge, did you give any consideration at all to putting Damschen on some other job because of his long experience with the company? A. I did not.

Q. You did not give that any consideration?

A. No, sir.

Q. You knew that you had many men working there that had been with the company a much shorter time than Damschen, didn't you?

A. I had a few men there, yes, sir, that was.

Q. And you knew that Damschen could do that work, didn't you?

A. Well, I wasn't so sure that he could do the work around the yard other than drive a tractor.

Q. Had you ever given him since you have been there an [190] opportunity to do other kinds of work?

A. Not continuously, no. There were times when he was working on the tractor that he did other work for short periods.

(Testimony of Patrick J. Conlee.)

Q. When you laid this tractor off, didn't you have men who were driving teams? A. Yes.

Q. Damschen had driven a team for you?

A. Not for me, he didn't.

Q. Didn't you have him drive team?

A. Not for me.

Q. Don't you recall a week in 1940 when he did that? A. It may be possible.

Q. Instead of laying him off altogether, you took him off the tractor and left Fay Dempsey on, and you put Damschen driving a team; don't you remember that?

A. I don't recall it; it may be possible.

Q. Did you lay off or discharge, whatever term you prefer to use,—did you lay off Damschen in 1940, that is, completely off the payroll?

A. Well, I can't remember whether we were shut down for any period in 1940 or not.

Q. Well, if you laid him off, it was when the yard was completely down or almost down, isn't that true? A. That is true.

Q. Now, on the 19th of March, Damschen was the only man discharg- [191] ed or laid off, wasn't he? A. Yes, sir.

Q. And that is the first time you ever laid Damschen off when he was the only one laid off, isn't that right?

A. As far as I can remember, yes.

Q. You had after the 19th of March two tractors running, you say? A. Yes, sir.

(Testimony of Patrick J. Conlee.)

Q. What did you do with Dempsey's tractor that was worn out?

A. It was tied up for a couple of weeks and eventually traded in for a new one.

Q. Dempsey then went on to Damschen's tractor?
A. Yes.

Q. And Dempsey's tractor was tied up?

A. Yes.

Q. And did you use the little Ford tractor?

A. Occasionally.

Q. So you had two tractors running after the 19th, and that was the tractor of Damschen's and the little Ford tractor?
A. Yes, sir.

Q. Who was operating the Ford tractor from the 19th for the next two weeks?

A. I don't think there was anybody regularly assigned to drive it.

Q. And why didn't you let Damschen run that after the 19th? [192]

A. Well, I just did not want Damschen, I guess was the reason.

Q. Just did not want him?
A. Yes.

Q. Now, how long after the 19th was it **until you** bought this new tractor?

A. I could not say, but I think that it was at least two weeks or more.

Q. Isn't it a fact that within a week you had three tractors operating after the 19th?

A. As I stated before, as far as I can remember on that, it was about two weeks.

(Testimony of Patrick J. Conlee.)

Q. Didn't you bring Fay Dempsey's tractor back out of the garage and start it operating again after the 19th before you bought the new one?

A. No, sir.

Q. It just stayed there until you bought the new one? A. Yes.

Q. When you bought the new tractor not more than two weeks after the 19th, you then had three tractors running?

A. I think that the Ford tractor had gone out about that time.

Q. Whom did you put on the new tractor?

A. I don't recall whether it was Orville Gillespie or Clyde Wear; one of those two men.

Q. Now, you say you think that the Ford tractor was gone by that time. What do you mean? [193]

A. Well, the Ford tractor was used by Mr. Schaefer in doing some of his farm work.

Q. Well, you continued, did you not, to use the Ford tractor when you needed it around the yard?

A. When we needed it, yes, if it was available.

Q. Now, isn't it true that within two weeks after Damschen was discharged, you hired new men in the yard?

A. Well, I don't recall how long after. As soon as business picked up a little, I put on some additional men.

Q. Why didn't you rehire Damschen?

A. Well, Mr. Damschen never came to me for re-employment.

(Testimony of Patrick J. Conlee.)

Q. Well, you knew that he had requested re-employment on the 22nd day of March, did you not?

A. Yes.

Q. Then why didn't you notify him? You knew where Damschen lived?

A. Yes, sir.

Q. You knew Damschen had worked for the company for a number of years?

A. Yes, sir.

Q. Do you have any other explanation for not offering him re-employment?

A. None further than the statement I made a little while ago that I just did not want him any more.

Q. Isn't it true, Mr. Conlee, that one reason and the [194] principal reason that you did not offer Damschen employment when business picked up was because he had taken this matter up with the union?

A. I don't think that that was a particular reason. I think it may have had some bearing on it.

Q. Well, that was one of the reasons, wasn't it?

A. Not the particular reason, no.

Q. Well, was it a reason?

A. I would not say it was a reason.

Q. The only reason that you can offer then is that you just did not want him?

A. Yes, sir.

Q. You did not like Damschen?

A. Oh, I had nothing particularly against him.

Q. You just did not want him to work for you?

A. Just did not want him to work for me.

Q. And yet his work was quite satisfactory?

(Testimony of Patrick J. Conlee.)

A. Yes, quite.

Mr. Brooks: No further questions.

Mr. Potts: I think that is all. That is all, Mr. Conlee.

Trial Examiner McNally: Just a minute. I would like to have the record show a description of the physical lay-out of the yard and the various operations that are performed there, and also how Mr. Conlee carries out his functions.

Mr. Brooks: Do you prefer that I interrogate him? [195]

Trial Examiner McNally: I am just asking that it be done. It does not matter who does it. I just wish that information to be developed for the record.

Mr. Potts: Mr. Schaefer just suggested to me that the yard is in active operation right now, and perhaps it would be a good thing to go down and take a look at it to illustrate it.

Trial Examiner McNally: I appreciate Mr. Schaefer's suggestion. The only objection to it is this, that the Trial Examiner does not finally decide this case. It is decided on the basis of the record, and hence my suggestion that a description be incorporated in the record.

Mr. Potts: I appreciate that any inspection would have to be supplemented by a description in the record. I should be very glad to bring it out. I think that we can do it without difficulty.

(Testimony of Patrick J. Conlee.)

Redirect Examination

Q. (Mr. Potts) Mr. Conlee, you have heard the Examiner's request for a description of the yard. I think perhaps it will be necessary for you to go ahead and give a general description of the set-up there, first, with respect to the yard's location with reference to the town of Priest River.

A. It is located just east of the town of Priest River.

Q. That is, it is in the outskirts of the town, is it not? A. Yes.

Q. And about what area does it cover? [196]

A. Well, I would say possibly 17 or 18 acres.

Q. And what shape is it?

A. Quite irregular. It follows the river bank.

Q. Now, is there a railroad spur running into the yard?

A. Two spurs,—one spur and then a branch off of that.

Q. And how are the poles handled as they are brought in from the woods? What is done with them?

A. The majority of the poles are delivered to the yard on trucks and they are distributed after being unloaded from the trucks to the various piles.

Q. Are there skidways or decks that they are put on? A. Yes, sir.

Q. And how are they distributed?

A. Well, the poles are classified and then distributed as to their classification.

(Testimony of Patrick J. Conlee.)

Q. Yes, but in what manner?

A. By teams and tractors.

Q. And is that what these tractors are used for?

A. Yes.

Q. To pull these poles around? A. Yes.

Q. And get them in their proper location on the skidways or decks? A. Yes, sir.

Trial Examiner McNally: Mr. Potts, so that we may be [197] sure, would the description Mr. Conlee has given be true as to February and March of 1941?

Q. (Mr. Potts, continuing) Has there been any change in the condition of the yard since February and March, 1941?

A. None; not any general change, no.

Q. And are the conditions that you are describing the conditions that existed during the months of February and March, 1941? A. Yes.

Q. Of course, at certain seasons of the year, there are no poles being brought into the yard?

A. That is right.

Q. And that was true in February and March?

A. Yes.

Q. At that time, the work consisted of activities incident to shipment of poles?—shipment of poles from the yard? A. Yes, sir.

Q. During the summer, of course, you have been engaged in the other end of the operation, having poles brought into the yard, have you not?

A. To deliver to the yard, yes.

(Testimony of Patrick J. Conlee.)

Q. And during that period, what effect does that have on the number of men employed?

A. It increases the employees according to the number of poles being delivered to the yard. [198]

Q. It increases the crew in the yard to handle it?

A. Yes, sir.

Trial Examiner McNally: Is that when you got up to 70 employees, as you indicated in the answer?

Q. (Mr. Potts, continuing) Mr. Conlee, when you are at the peak of the season, with poles coming in from the woods and at the same time shipments are being made from the yard, about what does the crew aggregate in numbers?

A. Well, ordinarily about 40 or 45 men.

Q. At this peak period, doesn't it get up as high as 70?

A. Well, this year our business both coming in and going out picked up considerably, and we worked two shifts.

That is the first time since I have been here that we worked two shifts.

Q. That was during the period from——

A. May 15 to August 15.

Q. May 15 to August 15 that you had the two shifts?

A. Yes.

Q. And is that the time the crew numbered about 70?

A. About 70 men, yes, sir.

Trial Examiner McNally: Then the low during the slack season runs about 26, approximately?

(Testimony of Patrick J. Conlee.)

Q. (Mr. Potts, continuing) Is that correct?

A. Yes, 20 or 22.

Q. About how many? [199]

A. About 20 or 22 men.

Q. When there are no poles coming in and at the low point of the season?

A. Yes.

Q. With least activity?

A. When our orders for shipments out are about normal and no poles are coming in, our crew averages around about 20 men.

Q. And that was the condition in February and March, was it, 1941?

A. Yes, sir.

Q. Now, where was your office located in the yard?

A. About centrally located.

Q. That is in the center of the yard lengthwise and centrally in width?

A. Centrally lengthwise and to one side in width.

Q. Now, on an average day, just about what is your activity? How much time do you spend in the office and how much in the yard?

A. Well, I spend most of the time in the yard: possibly not over an hour or so.—generally after the whistle blows, in the office.

Q. You mean the time you spend in the office is an hour or so after the whistle blows?

A. Yes.

Q. After it blows when? [200]

A. At night.

Q. Then you stay in the office?

A. Yes.

Q. But during the day, what do you do in the yard?

(Testimony of Patrick J. Conlee.)

A. Well, I am supervising the work that is going on.

Q. What do you do in the way of supervising? Do you walk over the yard?

A. I tramp around and see that things are being done.

Q. You go around where the men are working and see how they are doing the work and so forth, and give instructions, do you? A. Yes, sir.

Q. Now, is that your regular and has it been your regular custom, to do that, since you have been there? A. Yes, sir.

Q. So that, during the working day, you are in touch with the operations that are going on throughout the yard? A. Yes, sir.

Q. Now, do you have anyone with you in the office? A. No, sir.

Q. And do you keep the time of the men?

A. Yes, sir.

Q. And report it to the office at Sandpoint for the checks, is that correct? A. Yes, sir.

Mr. Potts: Mr. Examiner, is there any other phase of this [201] that you wish?

Trial Examiner McNally: I believe that covers it. I understand from the evidence that Mr. Conlee gets his instructions from Sandpoint, from the Company office there. Is that correct?

The Witness: Yes. The orders are delivered from the Sandpoint office. They come through the Sandpoint office to me.

(Testimony of Patrick J. Conlee.)

Q. (*Trial Examiner Schaefer*) Do you get instructions over the phone?

A. Yes, sometimes the orders are phoned to me.

Q. There is a phone in your office there?

A. Yes, sir.

Q. Is that the main source of communication with the Sandpoint office?

A. Yes, sir.

Q. When you are in the yard, there is nobody there to answer the phone?

A. The office is connected with our steam plant, and the engineer looking after the steam plant would as a rule answer the telephone if I did not answer it in the office.

Q. Are those the only two buildings you have, the office and steam plant?

A. No, we have several other buildings, but those are the only two with a phone. We have our incising machine building and a couple of storehouses. [202]

Q. Do these men work in groups or by themselves, or how?

A. Generally in groups.

Q. And they are spread in different parts of the yard?

A. Yes, sir.

Q. Now, you supervise them by telling them what you want them to do?

A. Yes, sir.

Q. When you are not there, do you depend on the men to do what you tell them?

A. If I am only away for a short period.

As a rule, the work is laid out. They probably have their work laid out for the whole day.

(Testimony of Patrick J. Conlee.)

Q. Is anyone in the group in charge of the others?

A. Well, the inspectors as a rule have,—while they don't have any authority, they kind of oversee the work the others are doing.

Q. Now, just what work do they do, and what work do they oversee?

A. The inspector sends in poles to the treating plant to be treated. He inspects the poles and directs the teams hauling the poles from the pile to the treating plant. They are more or less under his direction. He advises them what poles to take, and where to take them.

Q. How many inspectors did you have out there in the yard in February and March, or normally?

[203]

A. Well, I think in February and March, we had two.

Q. Who were they?

A. Jack Webb and George Cronkright or Fred Lebert. Cronkright is there all the time, but when he wasn't there, he was one of the inspectors.

Q. When Mr. Wear is not doing utility work, what does he do out there?

A. Well, Mr. Wear does, as he stated yesterday, he either loads poles or runs one of the machines. We have many occasions where we have to check our stock to see whether we have certain sized poles or poles that fit a certain order, and he checks those up. His work is more or less general fill in here and

Testimony of Patrick J. Connelley

there of to such things that I may assign to him.

Q. Mr. Connelley, there was some mention made by other witnesses about a general raise being given to the employees sometime after January 1, 1941. Can you tell us about that?

A. Well, I know there was such a raise that was put into effect by the office at Sandpoint.

Q. Do you know what date it was put into effect?

A. I don't recall just exactly, no.

Q. Do you know in what way the employees of the yard were notified of the raise?

A. I think that Mr. Schneider advised me that there was to be such a raise, and I told the boys.

[239]

Q. Do you know when you told them there was going to be a raise, or that they were given a raise?

A. Well, I could not say definitely; possibly a few days before the first of the month or a few days before the raise went into effect.

Q. Well, when did the raise go into effect?

A. I am not sure whether the first of April or the first of May.

Trial Examiner McKelby: Can that be determined?

The Witness: Yes, it can very easily be determined. Our records would show it.

Mr. Schneider: I would say it was the first of May, at least.

Trial Examiner McKelby: Well counsel see on what date the raise was put into effect, and I would

(Testimony of Patrick J. Conlee.)

like to have Mr. Conlee tell us when and in what way he notified the employees of the raise. If we can have the information as to what pay period during which the raise became effective, will counsel furnish that information?

Mr. Potts: We will find out. We will probably have to call the Sandpoint office.

Trial Examiner McNally: Is there anything further of the witness?

Mr. Potts: Just a question or two.

Redirect Examination

(continued)

Q. (Mr. Potts) You mentioned orders received from Sandpoint [205] or from the Sandpoint office, Mr. Conlee. I want to be clear just what we have in mind by those "orders". When you said "orders", what did you refer to?

A. Shipping orders, orders for poles to be shipped.

Q. Orders for the shipment of poles?

A. To destination.

Q. They come from the Sandpoint office?

A. Yes.

Q. You don't get orders from the Sandpoint office how to run the pole yard?

A. No.

Q. Or any instructions from the Sandpoint office in that respect? I mean aside from the general operations of the pole yard?

(Testimony of Patrick J. Conlee.)

A. The general operation of the pole yard has been left to my judgment.

Q. Now, Mr. Schaefer, president of the company, resides in Priest River? A. Yes.

Q. And you confer with him, or he comes to the yard from time to time, does he not?

A. Daily.

Q. And you confer with him on general matters?

A. Yes, sir.

Q. —in connection with the operations of the yard? [206] A. Yes.

Q. And do you receive instructions from him from time to time? A. Occasionally.

Mr. Potts: That is all.

Mr. Brooks: That is all.

Trial Examiner McNally: You may be excused.

(Witness excused)

JOHN E. SCHAEFER

was duly sworn as a witness by and on behalf of the Respondent and testified as follows:

Direct Examination

Q. (Mr. Potts) State your name, please?

A. John E. Schaefer.

Q. Mr. Schaefer, where do you reside?

A. Priest River.

Q. What position or connection do you have with the respondent Schaefer-Hitchcock Company?

(Testimony of John F. Schaefer.)

A. I am president of the Schaefer-Hitchcock Company.

Q. Have you been connected with the company since its organization? A. Yes.

Q. Now, in connection with the Priest River pole yard, just what activities do you pursue regarding the conduct of the pole yard, Mr. Schaefer?
[207]

A. Why, occasionally I talk to Mr. Conlee if I see anything wrong; then I usually call his attention to it, and that is about the extent of my activity.

Q. Well, as to details of the operation, do you handle them at all? A. No.

Q. That is his job? A. That is his job.

Q. And in that respect, is his position and are his activities similar to those of men in like position in other pole yards? A. Yes.

Q. Now, Mr. Schaefer, did you know of the discharge of Mr. Damschen prior to the time that he was laid off? A. No.

Q. When did you first learn of it?

A. I think I first learned of it when Mr. Paddock and Mr. Damschen came in the office at Sandpoint. I am not positive about that.

Q. Now, at that conversation of Mr. Paddock and Mr. Damschen and I think Mr. Butler, also—

(Testimony of John E. Schaefer.)

A. Mr. Butler from Newport, also, yes.

Q. What is your recollection of the conversation with reference to what you said as the reason for Mr. Damschen's discharge, that is to say, did Mr. Paddock make some statement to the effect that he believed Damschen had been discharged for union [208] activity? A. Yes, he did.

Q. And did you make a reply to that statement?

A. Yes.

Q. What is your recollection as to what you said?

A. I told him that I did not have any idea why he was discharged unless it was because I had complained several times that he was too rough with the tractor. And I said positively that I did not know anything about it until I saw Mr. Conlee. Mr. Paddock said if I would reinstate him right then, why, they could call the complaint off.

I told him that I would not do that, that I would have to see Mr. Conlee first, that I did not know anything about it.

Q. Then did you later during the day see Mr. Conlee?

A. I did in the afternoon, and he said he could not put Mr. Damschen back, or he would not.

Q. Then did you later have a call from Mr. Damschen?

A. Yes, I did. He came to my house, and asked how about it, and I told him at the present time he

(Testimony of John E. Schaefer.)

could not go to work, but later on we might put him on. Damschen also talked to Mr. Conlee. I did not interfere with that. I told him it was entirely up to him as to what he was going to do about it.

Q. Well, you did not object to the fact or the action of Mr. Conlee in discharging him?

A. No. [209]

Q. Now, Mr. Schaefer, did you know of any union activity here in Priest River in connection with your plant or pole yard during February or March of 1941?

A. No, I did not.

Q. What is the attitude of your company with respect to labor unions and what was it at that time?

A. Well, Mr. Paddock said he thought or at least Mr. Damschen contended that he was discharged on account of union activities. I told him that I did not know until they came in there that he belonged to the union, or ever said anything about a union. But I said, "To demonstrate that we are not opposed to unions, when we took over the Weyerhaeuser plant at Bovill, they had a union there, and it automatically was cancelled because we took the yard over, and I told our foreman there—" I think Mr. Paddock yesterday said that I told the men that was not true—"I told the foreman that he should go to the men and tell them that if they wanted to organize, it would be perfectly satisfactory with us; that we would be glad to sign up with them."

(Testimony of John E. Schaefer.)

I tried to demonstrate to Mr. Paddock that we were not opposed to unions.

Q. And is that a fact? A. That is a fact.

Q. Have you at any time taken any action antagonistic to the unions or to the men organizing in Priest River?

A. No, not since the IWW was organized here right after the War. [210]

Q. Now, you are going back to first war days, aren't you? A. Yes.

Q. As a matter of fact, were you yourself a member of a labor union?

A. Yes, I was at one time.

Q. Mr. Schaefer, you don't recall positively when this wage increase took effect in the spring of 1941?

A. I would not want to say positively, but I am quite certain that it was the first of May.

Q. Did you authorize the increase at that time?

A. Yes.

Q. What was it? Just a blanket increase of so much an hour?

A. Five cents an hour with the exception of some men that we did not raise that we were paying really more than the regular wage.

Q. Well, the five cents was as to the lower brackets? A. Yes, all the way through.

Q. On common labor? A. Yes.

(Testimony of John E. Schaefer.)

Mr. Potts: I believe that is all unless Mr. Schaefer thinks of something I have not directed your attention to. I don't think of anything else.

The Witness: No, there isn't, anything that I can recall or add to what I have already said.

Cross Examination [211]

Q. (Mr. Brooks) Is it possible that this raise went into effect before May 1st?

A. It is possible; I would not be sure.

Q. Do you recall that at this conversation with Mr. Paddock and others on the 22nd of March, you informed them that a raise was to be put into effect?

A. Informed Mr. Paddock?

Q. Yes. Do you remember mentioning it at that time?

A. No, I don't.

Q. You heard Mr. Paddock's and Mr. Damschen's testimony that you did mention that?

A. Probably. I don't recall it.

Trial Examiner McNally: The Witness does not recall the testimony or the statement? Which is it?

Mr. Brooks: That is what I want to know.

Q. (Mr. Brooks, continuing) You don't recall their testimony to that effect, or you don't recall whether you made such a statement? Which is it?

A. I don't recall whether I made such a statement.

Q. When did you decide to give this blanket raise?

(Testimony of John E. Schaefer.)

A. I don't recall that. Mr. Hitchcock and I made that decision together. I cannot tell you when we did that, but I think that it was shortly before we made the raise.

Q. Was it after the discharge of Damschen?

A. Yes, I think so. [212]

Q. What was the motivating factor, if there was one, that caused you to give this blanket raise?

A. Well, we had raised in all our yards.

Q. Do you have a contract or contracts with labor organizations in any of your Idaho yards?

A. No.

Q. Well, you can determine by a telephone call the effective date of the five-cent raise, can you?

A. I can find out in five minutes.

Q. As I understand, you had nothing whatsoever to do with the discharge of Damschen?

A. No, I had not.

Q. And you have nothing whatsoever to do about his not being re-employed? A. No.

Mr. Brooks: I have no further questions.

Redirect Examination

Q. (Mr. Potts) Well, Mr. Schaefer, mention has been made of one wage increase in the spring of 1941. Was there a wage increase preceding that?

A. Possibly there was.

Q. About the first of the year? Do you recall?

A. I think we made two raises, but I can't recall. I can find out.

Q. Do that, please. [213]

(Testimony of John E. Schaefer.)

Trial Examiner McNally: What percentage of the employees out there are common laborers or what percentage got a raise in this five-cent increase? Can you tell us that?

The Witness: I think that they all got a raise with exception of one or two. Mr. Cronkright was one that we did not raise because I had raised him several times before and we were paying him more than we ordinarily,—that a checker was getting, and we could not give him any more money, so we did not raise him, and possibly there was one or two others.

Q. (Trial Examiner McNally) Do I understand that you class all the labor out there with the exception of Mr. Cronkright and perhaps Wear as common labor?

A. They are all practically laborers with the exception of the hoist man and the incising man, who incises the poles.

Q. They are what? How do you classify them?

A. Well, we just pay them more money. They are not classified.

Q. Well, from the witnesses who have testified, I understand some of them are being paid a higher hourly rate than others?

A. That is true, because we figure they are worth more money on that particular job. Incising is a very particular job, and we try to keep a certain man on that all the time, so that he is competent to handle that machine. We can't

(Testimony of John E. Schaefer.)

put an ordinary laborer in there to run it. So we pay him more wages, and the same with the steam hoist. We have a Mr. McKee who has been there with us running the steam hoist, oh, I don't remember, 10 [214] or 12 years, and we just classify those fellows who have special jobs and pay them more money. We have had no regular system of classification of men.

Q. (Mr. Potts) Mr. Schaefer, you start out with a specific basic wage that is supposed to be the minimum wage for common labor?

A. That is it.

Q. And that is general throughout the area?

A. Yes.

Q. And that is what; what is your basic wage?

A. 65 cents per hour.

Q. Now 65. It was 60? A. Yes.

Q. And that is what everybody was paid?

A. Yes.

Q. They were all common labor as far as the wage scale is concerned except those three or four men? A. Yes, those three or four.

Q. And they were really men whom you consider skilled labor? A. Yes.

Q. That is to say, they are semi-skilled, anyway? You wanted particular men with particular qualifications for those two or three jobs?

A. Yes.

Q. I think that I asked you, but I would like to ask it again, aside from those few jobs of that

(Testimony of John E. Schaefer.)

character of skilled or semi- [215] skilled, the basis is all on the common labor wage scale?

A. That is true.

Trial Examiner McNally: Then, Mr. Schaefer, if you will find out what the basic scale was at the yard as of January 1, 1941, and what changes if any, were made in the basic rate up until about May——

The Witness: May 1st?

Trial Examiner McNally: Up until the present time.

Q. (Mr. Potts, continuing) There have been no increases since May, have there? A. No.

Mr. Brooks: Mr. Schaefer, I have one question that might be answered by either Mr. Schaefer or Mr. Conlee, and that is with reference to the men, if they can be named, that are receiving more than the minimum rate at the pole yard here. Can you answer that question?

The Witness: I think that Mr. Conlee can answer it better than I can. I never paid much attention to it.

Mr. Brooks: While Mr. Schaefer is securing that information over the phone, I would like to request the Examiner to call Mr. Conlee back for me to ask that question.

Mr. Potts: I suggest, Mr. Brooks, that we recess at this time to enable Mr. Schaefer to get the information requested; and during the recess, I

(Testimony of John E. Schaefer.)

think perhaps Mr. Conlee can figure out the answer to Mr. Brooks' question. [216]

Trial Examiner McNally: We will recess for 15 minutes.

(Thereupon at this time a fifteen minute recess was taken, after which proceedings were resumed as follows:)

Trial Examiner McNally: The hearing will come to order, please. You may proceed.

Q. (Mr. Potts, continuing) Mr. Schaefer, will you please resume the stand. (Witness does so.)

Did you ascertain when the wage increase went into effect in the spring of 1941? A. I did.

Q. What day? A. May 1st.

Q. What was the basic wage on January 1, 1941 for common labor? A. 60 cents.

Q. 60 cents an hour? A. Yes, sir.

Q. What was the basic wage after May 1st?

A. 65 cents.

Q. Is that the wage now? A. Yes.

Q. Now, talking about the wage increases, what is the fact as to wage increases generally in this area, that is, north Idaho, eastern Washington, and down as far as Lewiston, Idaho, where the Potlatch Forests is, during the past year? What about [217] the wage increases throughout the area, in the lumber industry?

A. That was a general increase both in the lumber and pole industry.

(Testimony of John E. Schaefer.)

Q. Now, when was it that you took over the Bovill yard from Weyerhaeuser?

A. I would think last fall sometime. It was in 1940.

Q. Was there any connection between the wage increase and the conditions down at the Bovill yard? A. Yes.

Q. What was it?

A. We raised the wages up here in May the same as they had down there, the same wage.

Q. That is, they had that wage?

A. They already had that.

Q. They already had that? A. Yes.

Q. Well, what is the fact as to whether or not Potlatch Forests had granted one or more wage increases generally?

A. They had granted two increases.

Q. Two increases? A. Yes.

Q. Since when?

A. In the woods, lumbering, this year.

Q. This year?

A. Yes. In the logging operations they have raised their [218] wages to 70 cents, and in the pole yards, it is still 65 cents. I am not positive, but it seems to me that we raised our wages at Potlatch to 70 cents,—at Bovill, rather.

Q. Now, there was no other wage increase on common labor during the past year, was there, by you? A. No, we had an increase last year.

Q. About what time last year?

(Testimony of John E. Schaefer.)

A. Well, I think that it was in the latter part of the year. We raised from 55 to 60 cents.

Q. As far as you know, have your wage increases been in conformity with the general conditions in the district, and the actions of others in the industry? A. Yes.

Trial Examiner McNally: What was the raise in the fall of 1940? From what to what?

The Witness: From 55 to 60. I don't know whether it was in the fall or last summer, but there was one raise in 1940. I think that Mr. Conlee knows more about it.

Mr. Conlee: I think that it was the latter part of the year. I am not sure, but I think it was along in October and November.

Trial Examiner McNally: That is, the 60 cents was in effect on January 1, 1941?

Mr. Conlee: Yes.

The Witness: Yes. [219]

Trial Examiner McNally: Anything further?

Mr. Brooks: No.

The Witness: You wanted to find out about the men that we paid more than the regular wage?

Mr. Brooks: Oh, yes; do you have that information?

The Witness: Yes.

Mr. Brooks: Will you state for the record the names of the employees who are working at the pole yard here in Priest River that receive more

(Testimony of John E. Schaefer.)

than the minimum rate, giving his name, his job, or classification, and his rate of pay?

The Witness: There is George Cronkright.

Mr. Brooks: Yes.

The Witness: He receives 80 cents an hour. He is an inspector.

Mr. Brooks: Just a minute. On Cronkright, he is the man, I believe, the record already shows is sent to different operations to do special jobs for you?

The Witness: Yes, inspecting mostly.

Mr. Brooks: And if he is not doing that special work, he inspects at the yard?

The Witness: He inspects in the woods when he is doing special work mostly.

Mr. Brooks: All right.

The Witness: And C. L. Wear, 80 cents.

Mr. Brooks: That is Con Wear? [220]

The Witness: 80 cents.

Mr. Brooks: And he is——

The Witness: He is kind of an inspector, but he can do anything in the yard.

Mr. Brooks: I think his duties have been fairly well defined already.

The Witness: I think so.

Mr. Brooks: All right.

The Witness: And R. McKee,—Rube McKee.

Mr. Brooks: That is the man who testified yesterday?

(Testimony of John E. Schaefer.)

The Witness: Yes, he is the steam hoist man.

Mr. Brooks: He has what rate?

The Witness: 75 cents.

Mr. Brooks: All right.

The Witness: And Tom Wear, 75 cents. He is operator of the incising machine. And Mr. Lebert, 70 cents. He is a pole checker.

Mr. Brooks: Is the checker's job different than an inspector's job?

The Witness: Well, in some cases it is.

Mr. Brooks: In this particular case?

The Witness: When they check poles—many cases where they check poles, they count them. Where they inspect them, they inspect for every possible defect the pole might have so that it would pass inspection, but they haven't the [221] experience Mr. Cronkright and Mr. Wear have had in inspecting.

Mr. Brooks: Any others?

The Witness: M. Morrow, 70 cents, pole checker. That is the six men who get more than 65 cents an hour.

Mr. Brooks: All others, with exception of Mr. Conlee, are receiving the basic rate of 65 cents?

The Witness: Yes.

Mr. Brooks: Was this same condition existing in February and March, if you know?

The Witness: Well, I don't know whether,—I think that some of them were raised five cents. I would not say for sure. The only ones that I

(Testimony of John E. Schaefer.)

am quite positive that we did not raise 5 cents was Cronkright, because he was already getting 80 cents, and possibly Wear, but I cannot tell you—Mr. Conlee would know, but I don't know whether the same scale was in effect in March.

Mr. Brooks: I would like to ask Mr. Conlee to tell us any differences that might have existed at that time.

Trial Examiner McNally: You may tell us from where you sit.

Mr. Conlee: Mr. Lebert and Mr. Morrow, shown there as pole checkers, were not so employed in March.

Mr. Brooks: Who, if anyone, was employed in February and March on the job that they now have?

Mr. Conlee: Jack Webb in addition to George Cronkright and Con L. Wear. [222]

Mr. Brooks: Now, did any of these men, Cronkright,—eliminate Cronkright,—did Con Wear, McKee and Tom Wear receive a raise in May?

The Witness: In May, yes.

Mr. Brooks: Five cents an hour?

Mr. Conlee: Yes.

Trial Examiner McNally: What were those three names?

Mr. Brooks: Con Wear, McKee and Tom Wear. Mr. Schaefer, one other question: Was May 1, 1941, the effective date of the raise, or was that the date the employees got their checks?

(Testimony of John E. Schaefer.)

The Witness: That was the effective date.

Mr. Brooks: In other words, their first check would be a day or so after May 15 for the period from May 1 to May 15?

The Witness: Yes.

Mr. Brooks: I have nothing else.

Trial Examiner McNally: Anything further?

(No response)

Trial Examiner McNally: Thank you, Mr. Schaefer.

(Witness excused)

Mr. Potts: The respondent rests.

Trial Examiner McNally: Any rebuttal?

Mr. Brooks: None.

Mr. Potts: We request permission to file briefs within the period allowed by the rule. [223]

Trial Examiner McNally: That is 15 days from the close of the hearing.

Mr. Potts: Yes.

Trial Examiner McNally: That permission will be granted.

Does counsel desire to argue orally?

Mr. Potts: We waive oral argument.

Mr. Brooks: I have no argument, Mr. Examiner.

It might be well for the record to show that on page 1 of Board's Exhibit 2, and in the second paragraph, that paragraph numbered (1), two corrections have been made by interlineation. The first

one is in line 4, of the paragraph numbered 1 by inserting in ink the word "principally" at the beginning of the line, and the second correction is in the same line and is made by striking out the words "and piling".

Trial Examiner McNally: Those corrections are approved by you, Mr. Potts?

Mr. Potts: Yes.

Trial Examiner McNally: Very well. Is there anything further?

(No response)

Trial Examiner McNally: I declare the hearing closed.

(At 11:10 a. m. September 16, 1941, hearing concluded) [224]

[Title of Circuit Court of Appeals and Cause.]

CERTIFICATE OF THE NATIONAL
LABOR RELATIONS BOARD

The National Labor Relations Board, by its Director of Field Division, duly authorized by Section 1 of Article VI, Rules and Regulations of the National Labor Relations Board—Series 2, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record in a proceeding had before said Board entitled, "In the Matter of Schaefer-Hitchcock Company and Lumber and Saw-

mill Workers Union, Local No. 2614, chartered by the United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor," the same being Case No. C-2002 before said Board, such transcript including the pleadings, testimony, and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

(1) Charge filed by the Lumber and Sawmill Workers Union, Local #2614, sworn to March 24, 1941.

(2) Complaint and notice of hearing issued by the National Labor Relations Board August 27, 1941.

(3) Respondent's answer to the complaint, sworn to September 2, 1941.

(4) Certified copy of order designating P. H. McNally Trial Examiner for the National Labor Relations Board, dated September 12, 1941.

Documents listed hereinabove, under items 1-4, inclusive, are contained in the exhibits and included under the following item:

(5) Stenographic transcript of testimony before P. H. McNally, Trial Examiner for the National Labor Relations Board, on September 15 and 16, 1941, together with all exhibits introduced in evidence.

(6) Copy of order, dated November 7, 1941, transferring case to Board, directing that no trial examiner's intermediate report shall be issued, and directing issuance of proposed findings of fact, proposed conclusions of law, and proposed order.

(7) Copy of proposed findings of fact, proposed conclusions of law, and proposed order issued by the National Labor Relations Board, January 23, 1942.

(8) Copy of respondent's exceptions to the proposed findings of fact, proposed conclusions of law, and proposed order, together with affidavit of service thereof, sworn to February 16, 1942.

(9) Copy of decision, findings of fact, conclusions of law, and order issued by the National Labor Relations Board March 12, 1942, together with affidavit of service and return receipts thereof.

In Testimony Whereof the Director of Field Division of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the City of Washington, District of Columbia, this 23rd day of April 1942.

G. L. PATTERSON,
Director of Field Division,
NATIONAL LABOR RELATIONS
BOARD.

(Seal)

[Endorsed]: No. 10118. United States Circuit Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. Schaefer-Hitchcock Company, a corporation, Respondent. Transcript of Record. Upon Petition for Enforcement of an Order of the National Labor Relations Board.

Filed April 27, 1942.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

[Title of Circuit Court of Appeals and Cause.]

STATEMENT OF POINTS ON WHICH
PETITIONER INTENDS TO RELY

Comes now the National Labor Relations Board, petitioner in the above proceeding, and, in conformity with the revised rules of this Court heretofore adopted, hereby states the following points as those on which it intends to rely in this proceeding:

1. Upon the undisputed facts, the Act is applicable to respondent's operations.

2. The Board's findings of fact are fully supported by substantial evidence. Upon the facts so found, respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (1) and (3) of the Act.

3. The Board's Order is wholly valid and proper under the Act.

NATIONAL LABOR RELATIONS
BOARD,

By ERNEST A. GROSS,
Associate General Counsel.

Dated at Washington, D. C., this 23rd day of
April 1942.

[Endorsed]: Filed Apr. 27, 1942. Paul P. O'Brien,
Clerk.

